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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES:

Extrajudicial, summary or arbitrary executions

Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1993/71

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Introduction

1. The present report is submitted pursuant to Commission on Human Rights resolution 1993/71 of 10 March 1993, entitled "Extrajudicial, summary or arbitrary executions".

2. This report is the second presented to the Commission on Human Rights by Mr. Bacre Waly Ndiaye. It is the eleventh since the mandate was established by the Economic and Social Council in its resolution 1982/35 of 7 May 1982.

3. In chapter I of the present report, the Special Rapporteur refers to the terms of reference for the discharge of his mandate in conformity with the aforementioned resolution as well as requests, made to him by the Commission on Human Rights in other resolutions, to pay special attention to a number of issues related to violations of the right to life. Chapter I also contains comments on the procedures followed by the Special Rapporteur during 1993 and, in particular, development of these procedures since he first took up his mandate in 1992. In chapter II, the Special Rapporteur provides a short overview of the legal framework for his mandate. In chapter III, he describes the activities undertaken since the finalization of his report to the Commission on Human Rights at its forty-ninth session. Chapter IV contains country-specific situations in which the Special Rapporteur has pursued his mandate: these include an analysis, in general terms, of allegations received concerning violations of the right to life as well as a summary of the correspondence with the Governments regarding allegations received since 1992. Where pertinent, the Special Rapporteur also makes observations on issues of particular interest to the mandate. In chapter V, the Special Rapporteur refers to violations of the right to life in the former Yugoslavia. Finally, in chapter VI, the Special Rapporteur sets forth his conclusions and closes his report with recommendations designed to ensure in future more effective respect for the international instruments and standards to which his mandate refers.

4. Two addenda to the present report (E/CN.4/1993/7/Add.1 and Add.2) contain the findings and concerns of the Special Rapporteur with regard to the situation of the right to life in Rwanda and Peru on the basis of on-site visits carried out in 1993. In these mission reports, the Special Rapporteur also provides observations, conclusions and recommendations.

I. THE MANDATE

5. In this chapter, the Special Rapporteur will address first the terms of reference for the discharge of his mandate as set forth by a number of Commission on Human Rights resolutions. These resolutions provide the framework for both the issues to be examined by the Special Rapporteur, with particular emphasis on certain areas of special concern, and the procedures to be followed in doing so.

A. Terms of reference

6. The Commission on Human Rights, in resolution 1993/71, requested the Special Rapporteur "to continue to examine situations of extrajudicial, summary or arbitrary executions" (para. 5). In the same resolution, the Commission also requested the Special Rapporteur "to pay special attention to extrajudicial, summary or arbitrary executions of children and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations" (para. 6); and "to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment" (para. 9).

7. In addition, in several other resolutions of the Commission on Human Rights special rapporteurs are asked to pay particular attention to a number of issues within the framework of their mandates, in particular:

(a) In resolution 1993/39, entitled "Staff members of the United Nations and of the specialized agencies in detention", the Special Rapporteur is requested to examine cases involving the violations of the right to life of staff members of the United Nations system and their families, as well as experts, special rapporteurs and consultants, and to transmit the relevant part of his report to the Secretary-General for inclusion in his report to the Commission on Human Rights;

(b) In resolution 1993/41, entitled "Human rights in the administration of justice", the Special Rapporteur is called upon "to give special attention to questions relating to the effective protection of human rights in the administration of justice (...) and to provide, wherever appropriate, specific recommendations in this regard";

(c) In resolution 1993/45, entitled "Right to freedom of opinion and expression", the Commission invites special rapporteurs to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression;

(d) In resolution 1993/46, entitled "Integrating the rights of women into the human rights mechanisms of the United Nations", the Commission requests all special rapporteurs "in the discharge of their mandates, regularly and systematically to include in their reports available information on human rights violations affecting women";

(e) In resolution 1993/47, entitled "Human rights and thematic procedures", the Commission, inter alia, requests the thematic special rapporteurs to include in their reports gender-disaggregated data, as well as comments on problems of responding and the result of analyses, as appropriate, in order to exercise their mandates even more effectively;

(f) In resolution 1993/48, entitled "Consequences for the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers", the Commission requests all special rapporteurs to continue paying particular attention to the adverse effect on the enjoyment of human rights of such acts of violence committed by armed groups, regardless of their origin, that spread terror among the population and by drug traffickers;

(g) In resolution 1993/54, entitled "Civil defence forces", the Special Rapporteur is invited to continue to pay due attention to the matter of civil defence forces in relation to the protection of human rights and fundamental freedoms;

(h) In resolution 1993/64, entitled "Cooperation with representatives of United Nations human rights bodies", the Special Rapporteur is requested to continue to take urgent steps to help prevent the occurrence of intimidation and reprisals against persons who seek to cooperate, or have cooperated with United Nations human rights procedures, as well as relatives of victims of human rights violations, and to continue to include in his report to the Commission on Human Rights a reference to allegations of intimidation or reprisal, or of hampering access to United Nations human rights procedures, as well as an account of action he has taken in this regard;

(i) In resolution 1993/70, entitled "Human rights and mass exoduses", the Commission recommends that special rapporteurs "pay attention to problems resulting in mass exoduses of populations and, where appropriate, report and make relevant recommendations to the Commission on Human Rights";

(j) In resolution 1993/81, entitled "The plight of street children", the Special Rapporteur is called upon to pay particular attention to the plight of street children.

8. In examining and analysing the information brought to his attention, the Special Rapporteur has taken into consideration these requests by the Commission on Human Rights. Reference to the issues concerned will be made in chapter IV, within the description of the country-specific situations. They will also be addressed in the conclusions and recommendations contained in chapter V of the present report.

B. Extrajudicial, summary or arbitrary executions

9. The "situations of extrajudicial, summary or arbitrary executions" which the Special Rapporteur is requested to investigate comprise a variety of cases. All acts and omissions of State representatives that constitute a violation of the general recognition of the right to life embodied in the Universal Declaration of Human Rights (art. 3) and the International Covenant on Civil and Political Rights (art. 6 and also arts. 2, 4 (2), 26 and,

particularly with regard to the death penalty, also arts. 14 and 15), as well as a number of other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies, fall within his mandate.

10. The most important of these instruments are:

(a) The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65 of 24 May 1989);

(b) The Safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1984/50 of 25 May 1984) and their implementation (Economic and Social Council resolution 1989/64 of 24 May 1989);

(c) The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX) of 9 December 1975);

(d) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46 of 10 December 1984);

(e) The Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Economic and Social Council resolution 663 C (XXIV) of 31 July 1957 and 2706 (LXII) of 13 May 1977);

(f) The Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111 of 14 December 1990);

(g) The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988);

(h) The United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") (General Assembly resolution 40/33 of 29 November 1985);

(i) The Convention on the Rights of the Child (General Assembly resolution 44/25 of 20 November 1989);

(j) The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, 27 August-7 September 1990);

(k) The Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169 of 17 December 1979);

(l) The Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977;

(m) The Declaration on the Protection of Women and Children in Emergency and Armed Conflict (General Assembly resolution 3318 (XXIX) of 14 December 1974);

(n) The Convention relating to the Status of Refugees (General Assembly resolution 429 (V) of 14 December 1950);

(o) The Convention on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 A (III) of 9 December 1948);

(p) The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985).

11. An analysis of the provisions of these international instruments relevant to the protection of the right to life makes it possible to group these situations according to the following categories:

(a) Violations of the right to life in connection with the death penalty;

(b) Deaths in custody;

(c) Deaths due to the use of force by law enforcement officials;

(d) Violations of the right to life during armed conflicts;

(e) Expulsion of persons to a country where their lives are in danger;

(f) Genocide;

(g) Breach of the obligation to investigate violations of the right to life;

(h) Breach of the obligation to provide compensation to victims of violations of the right to life.

12. A detailed analysis of these categories, together with a summary of the provisions contained in international instruments specifically relating to them, can be found in chapter II of the Special Rapporteur's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 42-68).

II. METHODS OF WORK

13. In resolution 1993/71, the Commission on Human Rights requested the Special Rapporteur "to respond effectively to information which comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened or when such an execution has occurred" (para. 10). By the same resolution, the Commission requested the Special Rapporteur "to enhance his dialogue with Governments by following up on communications dispatched to Governments transmitting allegations of extrajudicial, summary or arbitrary executions, as well as by following up on recommendations made by the Special Rapporteur in reports on on-site visits to particular countries" (para. 16).

14. Resolution 1993/47 of the Commission contains a number of provisions regarding visits and follow-up visits by thematic special rapporteurs; follow-up on recommendations made by them as well as on progress made by Governments with regard to their specific mandates; cooperation between thematic procedures and non-governmental organizations as well as between thematic special rapporteurs and working groups, relevant treaty bodies and country rapporteurs.

15. On the basis of these provisions, the Special Rapporteur has continued to transmit allegations of violations of the right to life to the Governments concerned in the form of urgent appeals and letters. The follow up to such communications has been intensified. Furthermore, the Special Rapporteur has carried out visits to Rwanda and Peru and enhanced his cooperation with non-governmental organizations as well as other United Nations human rights procedures.

16. In his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur presented a detailed analysis of the procedures established and developed in the course of the first 10 years of the mandate. He also described in detail certain difficulties encountered with regard to these procedures during the first six months of his activity as Special Rapporteur (E/CN.4/1993/46, paras. 11-41 and 689-705). In 1993, the Special Rapporteur continued his efforts to increase the effectiveness of the mandate through further refinement of the criteria for the evaluation of communications containing allegations and of government replies thereto. A number of questions have arisen as a result of these increased follow-up activities. This chapter contains a description and analysis of the Special Rapporteur's methods of work.

A. Allegations received by the Special Rapporteur

17. The Special Rapporteur continues to discharge his mandate mainly on the basis of information brought to his attention by non-governmental organizations, Governments, individuals and some intergovernmental organizations. These communications contain specific cases of alleged extrajudicial, summary or arbitrary executions or death threats, and/or general information about questions related to the right to life. During 1993, the Special Rapporteur received a large number of general

allegations, in particular with regard to legislation or practices concerning the death penalty or the phenomenon of impunity and its impact on the perpetuation of violations of the right to life in certain countries.

Credibility of sources

18. While many of the non-governmental organizations and individuals providing allegations are well known to the Special Rapporteur and other United Nations human rights procedures as sources of credible information, sometimes allegations are received from less well-known non-governmental organizations or entirely new sources.

19. In his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur outlined the main criteria applied in the evaluation of such allegations, namely the degree of detail they contain concerning the victim and the precise circumstances of the incident (see E/CN.4/1993/46, paras. 16-17). Where doubts persist, the Special Rapporteur will continue to seek corroboration of allegations from other sources of undisputed credibility.

20. The extent to which information received from Governments in their replies is taken into account in evaluating the credibility of the sources will increase as the latter are informed of the contents of these replies and invited to provide comments and/or additional clarifications and information within the follow-up procedure recently initiated (see below, paras. 32-63). As already expressed in the Special Rapporteur's report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, para. 18), information provided by Governments that simply clarifies facts reported by a non-governmental organization or sheds new light on them does not adversely affect the credibility of the source, nor do general accusations concerning the motives or reliability of the source. It is to be expected that the Government has more information than a non-governmental organization concerning factual aspects of incidents involving the loss of life, and it is also normal that their evaluation of the significance of such incidents may differ. The situation may change where Governments state in their replies that allegations submitted to the Special Rapporteur were unfounded or substantially distorted. The way in which the sources of allegations respond to the Special Rapporteur's requests for comments on the contents of government replies and/or additional details to clarify the cases submitted by them will provide the Special Rapporteur with a basis for assessing reliability of the sources.

Information required to process allegations of extrajudicial, summary or arbitrary executions

21. While there is no formal procedure for the submission of allegations, certain requirements should be met so as to enable the Special Rapporteur to bring appropriate cases to the attention of the Governments concerned without unnecessary delay. The following points indicate which type of information is needed. This may serve as guidance for those wishing to submit cases of alleged violations of the right to life:

(a) Information regarding the victim: full name; age; sex; place of residence or origin; profession and/or any activities, if related to the alleged extrajudicial execution or threat; any other pertinent information that may help identify a person (e.g. the registry number of a prisoner or the number of his passport or identity card);

(b) Information regarding the event: date; place; description of how the events occurred; in cases of alleged violations of the right to life in connection with the death penalty, detailed information on shortcomings with regard to fair trial guarantees, pertinent legislation, texts of sentences imposed and appeal submissions, etc.;

(c) Information regarding the alleged perpetrators, including an explanation of the reasons why they are suspected to be responsible: names, if known; if they are members of the security forces, their rank, functions, the unit or service to which they belong, etc.; if they are members of civil defence groups, paramilitary or other forces, details on how these forces relate to the State (e.g. cooperation with State security forces including information on chains of command; State connivance with, or tolerance of their operations, etc.);

(d) Information regarding steps taken by the victims or their families and, in particular, about complaints filed (by whom; before which organ). If no complaints where filed, why not;

(e) Information regarding steps taken by the authorities to investigate the alleged violation of the right to life and/or measures adopted to protect persons under threat as well as to prevent similar incidents in the future, in particular: if complaints were filed, the action taken by the competent organs upon their receipt; progress and status of investigations at the time of the submission of the allegation; where the results of the investigation are said to be unsatisfactory, explanation of why this is so;

(f) Information regarding the source of the allegations: name and full address of the organization or individual to facilitate clarifications of unclear details and follow up.

B. Allegations transmitted by the Special Rapporteur to the Governments concerned

22. Where there are no serious grounds to believe that the information provided by the source is not credible, the Special Rapporteur transmits them to the Governments concerned, either in the form of an urgent appeal or in a letter to the authorities.

Urgent appeals

23. As in previous years, such urgent transmissions have been made in cases of death threats, fear of imminent extrajudicial, summary or arbitrary executions, or particularly grave incidents of violations of the right to life, especially abuse of force. The Special Rapporteur also sent urgent appeals after being informed of the imminent expulsion of persons to a country where they may be at risk of extrajudicial, summary or arbitrary execution.

24. The Special Rapporteur appealed to the Governments concerned to ensure effective protection of those under threat or at risk of execution. He also urged the competent authorities to carry out full, independent and impartial investigations and to adopt all necessary measures to prevent future violations of the right to life. The Special Rapporteur requested that he be kept informed about all steps taken in this regard.

25. As in 1992, where urgent appeals also concerned cases of alleged imminent execution of the death penalty, grave incidents of abuse of force by members of the security forces, particularly against participants in demonstrations and manifestations, or alleged fear for the life and physical integrity of persons as a consequence of torture and any other form of cruel or inhumane treatment, the Special Rapporteur also reminded the Governments concerned of specific safeguards and guarantees of the right to life contained in international instruments regarding restrictions on capital punishment and the use of force and firearms, the prohibition of torture as well as minimum conditions of detention.

26. The aim of urgent appeals is the prevention of irreparable loss of life. Consequently, the Special Rapporteur transmits allegations of imminent extrajudicial, summary or arbitrary executions regardless of whether domestic remedies have been taken. This applies to cases of imminent execution of a death sentence alleged to contravene the limitations on capital punishment set forth in the pertinent international instruments but also to allegations of death threats or fear of imminent extrajudicial, summary or arbitrary executions, where the Special Rapporteur does not consider it appropriate to wait for such action, whether penal or civil, as may be undertaken by those under threat before conveying his concern to the authorities.

Other allegations

27. Alleged cases of extrajudicial, summary or arbitrary executions of a less urgent character and questions related to the right to life in general terms were transmitted to the Governments concerned in the form of individual case summaries in letters, together with a request to provide the Special Rapporteur with information concerning the progress and results of investigations carried out into these cases, specific measures adopted to prevent future violations of the right to life, as well as any other pertinent comments or observations.

28. The Special Rapporteur has devised a "reply form" for cases of alleged extrajudicial, summary or arbitrary executions which has been used in all letters transmitting such cases since 29 July 1993. This is an effort to facilitate the governments' response to the Special Rapporteur's communications by providing them with very specific guidance as to the type of information needed for an assessment of the situation. The Governments concerned have therefore been requested to fill in the following questionnaire, where the questions were pertinent to the cases transmitted:

> "1. Are the facts alleged in the summary of the case accurate? If not, please provide details of the inquiries carried out to refute these allegations.

2. What is the cause of death indicated in the death certificate?

3. Was an autopsy performed? If so, by whom? What are the results of the autopsy? (Please provide a copy of the complete autopsy report.)

4. Which is the authority responsible for investigating these allegations? Which is the authority responsible for prosecuting perpetrators?

5. Has a complaint, formal or informal, been made on behalf of the victim?

6. If so, who made the complaint? What is their relationship to the victim?

7. To whom was the complaint made?

8. What action was carried out upon receipt of the complaint, and by whom?

9. Are any inquiries, judicial or other procedures under way? If so, please provide details of their progress to date, and the timetable envisaged for their conclusion. If such inquiries or procedures have been completed, please provide details of the conclusions reached (please attach copies of any relevant documents). Are such conclusions definitive?

10. Has the person alleged to have carried out the extrajudicial, summary or arbitrary execution been identified? To which unit or branch of the security forces or groups cooperating with them does he/she belong?

11. Have penal or disciplinary sanctions been imposed on the alleged perpetrators? If so, please provide details of the procedures followed to ascertain the penal or disciplinary responsibility of the perpetrators before imposing such penalties. If no such sanctions have been imposed, why not?

12. If no inquiries have been undertaken, why not? If such inquiries as have been carried out were inconclusive (for example, if the individuals responsible have not been identified), why so?

13. Has any compensation been provided to the family of the victim? If so, please provide details including the type and amount of compensation involved. If no compensation has been provided, why not?

14. Please provide such other information or observations concerning the present case as you consider relevant."

29. As regards questions related to the right to life in more general terms, such as, for example, reports about persistent impunity or legislation alleged to be in contravention of restrictions on the application of capital

punishment contained in pertinent international instruments, these have been transmitted to the Governments concerned together with requests for specific information, legislative texts or other documents.

C. Replies received from Governments

30. In resolution 1993/47, the Commission on Human Rights encouraged Governments "to respond expeditiously to requests for information made to them through the procedures, so that the thematic special rapporteurs concerned (...) may carry out their mandates effectively." In resolution 1993/71, the Commission urged "all Governments, in particular those which consistently have not responded to communications transmitted to them by the Special Rapporteur, and all others concerned to cooperate with and assist the Special Rapporteur so that his mandate may be carried out effectively".

31. Information provided by the Governments concerned in reply to the allegations transmitted to them is indeed of great importance for the Special Rapporteur to form an opinion on the situation in a given country. The Special Rapporteur has received a number of replies to his urgent appeals and letters transmitting allegations of violations of the right to life. As is the case for the communications by which the Special Rapporteur received such allegations, government replies also have to be evaluated. This is closely related to the question of when an alleged extrajudicial, summary or arbitrary execution can be considered as "clarified". It is particularly important with regard to the request for follow up on allegations transmitted which the Commission on Human Rights made to the Special Rapporteur.

D. Follow-up

32. As described earlier, the Commission on Human Rights requests the Special Rapporteur to follow up on allegations of extrajudicial, summary or arbitrary executions. Such a request was first made by the Commission to the Special Rapporteur in 1992. In response to this request, the Special Rapporteur had sent, in late 1992, a first series of letters to a number of Governments requesting updated information on cases transmitted in 1991 by his predecessor, Mr. S. Amos Wako (see E/CN.4/1993/46, paras. 81-85).*

33. Until now, allegations transmitted to Governments, as well as any reply received, were reflected in the Special Rapporteur's report concerning the year in which they were transmitted. In most cases, replies received from Governments were reproduced, in full or in part, in the Special Rapporteur's reports without any comment or analysis. Once presented in this manner, the

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* Due to the fact that a database for cases of alleged extrajudicial, summary or arbitrary executions could only be created last year, the Special Rapporteur has decided to concentrate his follow up on allegations transmitted since he was appointed to succeed Mr. Wako in 1992. However, replies received concerning cases transmitted earlier will be reflected in the chapter of the present report which contains an analysis of specific country situations.

vast majority of cases were never referred to again in later reports. Only in the report presented to the Commission on Human Rights at its forty-ninth session did the Special Rapporteur include specific observations regarding some of the replies (see, for example, E/CN.4/1993/46, paras. 20, 183-184, 229, 501, 615, 692-693).

34. In 1993, the Special Rapporteur undertook various follow-up initiatives. In doing so, a number of issues have arisen in relation to the follow up on allegations, in particular with regard to the assessment of government replies as well as the questions of when to consider a case "clarified" and what to do where Governments do not reply to the allegations transmitted. It has become evident to the Special Rapporteur that additional human and material resources are indispensable if such a follow-up task is to be carried out in a meaningful way. The following paragraphs contain a description of follow-up activities and an analysis of the above-mentioned issues.

Follow-up correspondence with Governments

35. The Special Rapporteur sent letters to Governments concerning allegations transmitted in 1992 for which no reply had been received and reiterated his request to be provided with information concerning the progress and results of investigations as well as any measures adopted with a view to preventing further loss of life.

36. The Special Rapporteur also sent communications to Governments concerning allegations transmitted to them in 1992 and 1993 for which replies had been received but which could not be considered as final. These letters contained very specific requests for additional information which is needed in order to determine whether the cases in question can be considered "clarified".

37. Four main types of reply were received from Governments in 1992 and 1993:

(a) In some instances, replies are general in character and do not refer to the particular cases transmitted. While such information is most welcome and helpful for the Special Rapporteur to form an opinion on the situation in a given country, details are needed concerning the specific allegations and, in particular, the progress and results of investigations carried out by the competent authorities. The same applies where Governments address issues relating to the mandate of the Special Rapporteur without going into detail with regard to the cases;

(b) Often, Governments inform the Special Rapporteur that investigations into the allegations have been initiated. In such cases, the Special Rapporteur asks the Governments to provide him with updates on the progress of such investigations or, if they have been concluded, the decisions taken as a result thereof. Where such information has not been provided already, the Special Rapporteur also requests that he be informed about the proceedings followed in such investigations, in accordance with the relevant legislation of the country concerned. The procedural questions apply both to the specific cases in question and in general, including details about the organs investigating, the rights of victims or their families to

participate in such investigations, the sanctions that may be imposed as a result of such proceedings, as well as the possibilities of appeal against decisions taken and whether such decisions are made public;

(c) In some instances, Governments state that investigations have been initiated but then halted for lack of evidence, particularly if it has not been possible to identify the presumed authors of the alleged extrajudicial, summary or arbitrary execution. In such cases, the Special Rapporteur also requests detailed information concerning the investigation, in particular with regard to any right of the victims' families to participate in the proceedings and to challenge any decision to halt the inquiry before a higher instance or another body;

(d) In other cases, Governments state that the allegations are factually incorrect, or they provide a different explanation of events leading to the death of the person in question. In such cases, the Special Rapporteur asks the Governments to provide him with detailed information about the investigations on which these assertions are based, in particular with regard to the organ which carried out the investigation, the methods applied for the gathering and assessment of evidence, whether the results of the investigation have been made public and whether they are final.

38. In response to these requests for follow-up information, some Governments have provided the Special Rapporteur with updated information about investigations under way.

Follow-up correspondence with sources of allegations

39. For the first time since the establishment of the mandate, the Special Rapporteur has addressed letters to the sources of allegations to inform them of the contents of government replies concerning the cases they submitted. The Special Rapporteur has requested them to provide him with their comments and, in some instances, further details regarding these cases.

40. Several non-governmental organizations have already submitted comments or additional information in response to the Special Rapporteur's request.

Follow-up: some questions to be taken into account

41. In resolution 1993/47, the Commission on Human Rights encouraged the Special Rapporteur to follow closely the progress made by Governments with regard to the protection of the right to life. In devising and putting into practice a scheme for follow-up on allegations of extrajudicial, summary or arbitrary executions enabling him to do so, the Special Rapporteur has encountered a number of difficulties.

42. First, it is often very difficult to assess progress made with regard to respect for the right to life. The amount and type of information which comes before the Special Rapporteur continue to depend to a very large extent on the level of organization of non-governmental organizations and their awareness of United Nations human rights procedures. Consequently, the number of allegations received for a given country does not necessarily reflect, in an accurate manner, the scale of extrajudicial, summary or arbitrary executions

which may take place there. Even greater caution is warranted if, on the basis of such information as may be received, comparisons between different countries were to be made - this is not the aim of follow-up as the Special Rapporteur understands it.

43. In the opinion of the Special Rapporteur, follow-up efforts should focus on how Governments comply with their obligation under international law to carry out full, independent and impartial investigations into all allegations of extrajudicial, summary or arbitrary executions transmitted to them, with a view to clarifying the circumstances, identifying and prosecuting those responsible, granting compensation to the victims or their families, and preventing future violations. The Special Rapporteur believes that close monitoring of, and reporting on States' compliance with this obligation and, in particular, progress made by them may constitute an incentive for Governments to increase their efforts in this regard. A greater probability of being held responsible for violations of the right to life may, in turn, help prevent similar incidents from happening in the future.

44. However, the Special Rapporteur will also continue paying attention to, and reporting on problems affecting the right to life as well as progress in its enjoyment in certain countries, such as legislation regarding the application of the death penalty or the use of force and firearms or the phenomenon of impunity in general. While this monitoring of general trends and developments seems to pose less difficulties in practice, there are a number of points which have to be addressed with regard to the follow-up on individual cases, namely the question of when a case is "clarified", how to come to a conclusion where information provided by the Government concerned and the source of the allegation is contradictory, and what to do in cases where Governments do not reply at all to requests for information made to them by the Special Rapporteur.

<u>When is a case "clarified"</u>?

45. If the monitoring of allegations of extrajudicial, summary or arbitrary executions transmitted to Governments takes the form of observing, on the basis of information provided by the Government concerned and the source of the allegation, investigations into these cases until they have been solved, it is necessary to establish the conditions which must be fulfilled before the case may be classified as "clarified" and removed from the list of "open" cases, on which the follow-up continues.

46. Whether or not a case can be regarded as "clarified" is closely linked with the question of whether a reply provided by the Government concerned is in itself satisfactory. In his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur had addressed the problem of evaluating government replies and outlined examples of information that may be regarded as satisfactory (E/CN.4/1993/46, paras. 29-34). In 1993, he continued his analysis of government replies with a particular view to their obligation to investigate violations of the right to life, as mentioned above.

47. On the basis of this analysis breaking down government replies into various categories according to their contents, a number of points are taken into account by the Special Rapporteur in his evaluation. First, as a

minimum, it is essential that the reply specifically refers to the cases transmitted by the Special Rapporteur. As stated earlier, general information on legislation, investigation procedures and practice, etc. is most welcome and helpful but does not permit him to assess the merits of the specific allegations transmitted. It is also essential that the Government, when refuting allegations as factually incorrect, provides information on the investigations carried out which permit this conclusion to be drawn.

48. It is the obligation of Governments to carry out full, independent and impartial investigations into all alleged violations of the right to life. When carrying out such investigations, Governments must meet the standards set forth in the pertinent international instruments, in particular the International Covenant on Civil and Political Rights and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In keeping with the mandate entrusted to him, the Special Rapporteur evaluates government replies in the light of these provisions.

49. Where the Government replies that investigations into the case have been initiated, the Special Rapporteur takes account of the following:

(a) The character of the investigation (judicial or administrative) and its objectivity;

(b) The independence, impartiality and competence of the organ carrying out the investigation;

(c) The procedures applied in the investigation, in particular with regard to the gathering and assessment of evidence;

(d) The rights of victims or their families or representatives;

(e) The decisions that may be reached as a result of such investigations, and the sanctions that may be imposed as a result thereof;

(f) The possibilities for the victims or their families to receive compensation;

(g) Whether the investigation was initiated, carried out and concluded within a reasonable time.

50. Disciplinary investigations can be considered as being in keeping with the obligation to investigate only if there is a guarantee of objectivity, impartiality and competence on the part of the investigating officials, and if this procedure may result, within a reasonable length of time, in sanctioning according to the gravity of the offence those found responsible, as well as compensation for the family of the victim. If these criteria are not fulfilled, and if it is the only measure taken by the Government concerned, a disciplinary procedure is not satisfactory. Similar considerations apply where special investigative organs are established to inquire into allegations of violations of the right to life.

51. In cases where Governments reply that those responsible have been identified, tried and convicted, the Special Rapporteur takes into account not

only the way in which such proceedings have been conducted but also whether the sentence appears to be proportionate to the gravity of the offence and whether compensation has been granted to the victims or their families. It is important to note that all those involved in the planning and carrying out of violations of the right to life must be held responsible. The conviction and sentencing of "scapegoats" cannot, and must not, be considered as being in compliance with the Governments' obligation under international law to punish all those involved in the planning and execution of violations of the right to life.

52. Where Governments reply that investigations have been stopped for lack of evidence, particularly if the alleged perpetrators could not be identified, the Special Rapporteur also proceeds to an assessment of the investigation according to the criteria described above. In such situations, particular attention is paid to the methods of gathering and evaluating evidence applied during the investigation as well as the possibilities for the victims, their families or representatives to challenge the decision to stop the investigation before a higher instance or another body, or to have it reopened on the basis of new evidence becoming available.

53. If, as a result of his analysis, the Special Rapporteur comes to the conclusion that the reply is not in itself satisfactory, he seeks clarification from the Government concerned and transmits the contents of the reply to the source for comments and/or additional details. The case remains "open" and the Special Rapporteur continues to follow the way it is being investigated. It is envisaged that a list containing all "open" cases will be available, between one and three times a year, to the members of the Commission on Human Rights and that it be included in the Special Rapporteur's annual reports to the Commission.

54. If the Government replies that investigations into a case have been concluded and the reply is satisfactory, the Special Rapporteur also transmits the reply to the source of the allegations. If the source confirms the information provided by the Government, or if it does not respond at all within a reasonable lapse of time, the Special Rapporteur will consider the case as "clarified". The list of clarified cases will, of course, also be reflected in his annual reports to the Commission on Human Rights.

55. The Special Rapporteur will continue monitoring those cases where investigations have been opened and are being carried out in keeping with the standards set forth in the pertinent international instruments. While such cases cannot yet be regarded as completely "clarified", they will nevertheless have to be distinguished from cases where no investigation at all has been opened, or where such investigations cannot be considered as satisfactory. They will form a separate and distinct category in the list of "open" cases.

56. In some instances, Governments have told the Special Rapporteur that no investigation was carried out. In a number of cases involving alleged death threats, this was justified by the fact that the persons said to be under threat had not filed a complaint with the authorities purportedly competent under the law in the country concerned. Other Governments reply that amnesty laws have been passed which encompass the cases of alleged extrajudicial, summary or arbitrary executions transmitted to them by the Special Rapporteur,

and as a consequence, no investigations into those cases have been opened. With regard to these two, relatively frequent, types of unsatisfactory replies, the Special Rapporteur wishes to emphasize the following:

(a) If alleged violations of the right to life are brought to their attention, for example by the Special Rapporteur, Governments are obliged to carry out thorough, prompt and impartial investigations into all such allegations and, where violations of the right to life are said to be threatened or imminent, adopt all necessary measures to ensure the safety of the purported victim. This obligation exists regardless of whether the purported victim has taken any judicial or other action;

(b) Governments are obliged under international law to bring perpetrators of extrajudicial executions to justice and compensate surviving victims or their dependants. This obligation is clearly expressed in the Principles on the Effective Prevention and Investigation of Extra-legal, Summary or Arbitrary Executions: "In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, summary or arbitrary executions" (principle 19). Accordingly, even if, in exceptional cases, Governments may decide that perpetrators should benefit from measures that would exempt them from, or limit the extent of their punishment, their obligation to bring them to justice and hold them formally accountable remains, as does the obligation to carry out prompt, thorough and impartial investigations, grant compensation to the victims or their families and adopt effective preventive measures for the future.

The problem of contradictory information from Governments and sources

57. In the vast majority of cases where, in the past, replies had been received from Governments, the information they provided refuted, with or without giving details of the basis for this, the allegations transmitted by the Special Rapporteur. This is likely to continue to occur. Indeed, during the short period since the follow-up procedure described above was initiated, there have already been several cases in which the source of the allegation, when asked for comments and additional details in response to the Government's refutation, reiterated its earlier allegations.

58. In this context, it should be recalled that the Government is not only obliged to carry out investigations into alleged cases of extrajudicial, summary or arbitrary executions, but also disposes, in most cases, of much greater facilities to do so than non-governmental sources of allegations. Consequently, it is incumbent upon the Government to provide a satisfactory reply, i.e. to demonstrate that these investigations have been carried out in keeping with the standards set forth by the pertinent international instruments. So long as it is not shown that the Government has done so, the reply cannot be considered as satisfactory and the case will therefore continue to be regarded as "open".

59. A problem arises where the Government reply appears to be satisfactory, but where the source of the allegation maintains that it has a well-founded reason to believe that the evaluation of facts by the Government does not correspond with reality; or that those identified and punished are not, or

not exclusively, responsible; or that no compensation has been granted to victims or their families, despite affirmations to the contrary made by the Government. One way for the Special Rapporteur to come to a conclusion as to the merits of the allegations and the veracity of information provided, respectively, by Governments and sources would be to benefit from the opportunity provided by on-site visits.

60. However, even where it is not possible to conclude whether allegations are accurate or not, they may still provide the Special Rapporteur with a useful basis for the consideration and analysis of issues of a more general nature which arise therefrom. On the basis of such analysis, the Special Rapporteur may propose recommendations such as, for example, changes in legislation so that it conforms more closely to international standards or other measures to prevent future violations of the right to life.

The problem of "silent" Governments

61. In the past, no replies have been received from the Governments concerned to the majority of the allegations transmitted by the Special Rapporteur. Very few Governments have replied regularly, and to all cases brought to their attention. Many others have replied to some cases, omitting to mention others, and some have never replied at all.

62. Where Governments reply to the allegations transmitted to them, they are likely to receive requests for further details and the way they discharge their obligation to investigate such cases will be closely monitored by the Special Rapporteur. Even where replies are satisfactory, there may be follow-up correspondence, such as, for example, where investigations have not yet been concluded and the Special Rapporteur asks the Government to provide him with updated information. The Special Rapporteur will, of course, include all follow-up activities in his report to the Commission on Human Rights. It may therefore happen that those Governments which do comply with the request made to them by the Commission to provide the Special Rapporteur with information could find themselves extensively referred to in the report, while less reporting space and attention may seem to be given to those Governments which do not reply at all and which, consequently, only receive reminder letters. In such a situation, those providing replies may feel "penalized" for their diligence.

63. It is important in this context to stress that the Special Rapporteur highly appreciates the will to cooperate shown by those Governments which provide him with replies. If he writes back to them with a request for additional details, this is not done in a spirit of accusation. It is clear that, since there are at present concerns regarding the more than 70 countries being dealt with under his mandate, the Special Rapporteur is not in a position to know details and differences in legislation and practice in each of them; he needs to be provided with extensive information about the way Governments comply with their obligations under international law. The follow-up procedure recently initiated by the Special Rapporteur endeavours to distinguish very clearly between cases that have been clarified, those being investigated in a satisfactory way and those remaining "open", in which the Governments have not fulfilled their obligation to investigate and prosecute.

E. Visits

64. The Special Rapporteur continues to view on-site visits as an essential component of his mandate. As pointed out in his report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/46, paras. 35-37), the aim of such visits is to obtain first-hand information on the situation of the right to life in the countries visited, to report on the findings and propose, in a spirit of cooperation and assistance, recommendations to improve on areas identified as matters of concern. In conformity with the request made to him by the Commission on Human Rights in resolution 1993/47, the Special Rapporteur intends to keep close contact with the Governments of the countries visited to assist them to the maximum extent possible with the implementation of such recommendations. Follow-up visits within a reasonable time are also envisaged.

65. In 1993, the Special Rapporteur carried out two visits to investigate allegations of violations of the right to life in Rwanda and Peru. He solicited further visits to a number of countries. The selection of countries which he wishes to visit is made primarily on the basis of the number and gravity of allegations and reports he receives concerning violations of the right to life. It is expected that increased follow-up activities will also contribute to the identification of countries where a visit by the Special Rapporteur may be appropriate.

F. Cooperation with other United Nations procedures

66. The Special Rapporteur also attaches great importance to cooperation with other United Nations bodies dealing with issues related to his mandate and to the coordination of his activities with those carried out by such bodies. In past years, this has taken the form of consultations, either on questions concerning the day-to-day operation of his mandate or in preparation of, and during, on-site visits, as well as joint missions with other special rapporteurs and working groups of the Commission on Human Rights. In 1993, this cooperation between the special rapporteurs and members of working groups of the Commission has intensified and several meetings were held in the process of the preparation of, and during the World Conference on Human Rights in June 1993. Furthermore, as regards the questions of fair trial and impunity, the Special Rapporteur has greatly benefited from the reports prepared by the Special Rapporteurs on the administration of justice of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities.

67. The Special Rapporteur continued to seek the cooperation of United Nations human rights monitoring missions based in certain countries by sending them copies of the allegations sent to the respective Governments and requesting them to provide him with any comments and observation they might have, either concerning these cases or the situation of the right to life in general. In addition, the Special Rapporteur has intensified his contacts with different United Nations treaty bodies, and especially the Committee on the Rights of the Child. Finally, with regard to his missions, the Special Rapporteur has greatly benefited from the cooperation extended to him by the United Nations Development Programme (UNDP) representatives based in the host State.

III. ACTIVITIES

68. In 1993, the Special Rapporteur has carried out a number of different activities, including those referred to below.

A. Consultations

69. The Special Rapporteur visited Geneva from 27 February to 5 March 1993. On 2 March 1993, he presented his report to the Commission on Human Rights. The Special Rapporteur also visited Geneva from 26 to 30 July 1993, 23 to 29 September 1993 and 15 to 19 November 1993 for consultations with the Secretariat. During his visits to Geneva, he met with a number of other special rapporteurs, representatives and members of working groups of the Commission on Human Rights. He also held meetings with government representatives of regional groups represented in United Nations bodies, as well as with delegations of certain Governments, and consulted with representatives of non-governmental organizations.

70. Furthermore, in April 1993, the Special Rapporteur participated in a meeting in Geneva of the Preparatory Committee for the World Conference on Human Rights, which he attended from 14 to 25 June 1993. Also in the process of the preparation of the World Conference on Human Rights, the Special Rapporteur attended the African regional meeting at Tunis in November 1992.

B. Communications

71. As in the past, the Special Rapporteur has received an enormous amount of information; some referred to the phenomenon of extrajudicial, summary or arbitrary executions in general, some consisted of allegations of violations of the right to life in particular cases, while others were related to follow-up on cases and general concerns transmitted to Governments earlier. This information was processed and allegations sent to the Governments concerned according to the methods of work described in chapter II of the present report.

72. In total, the Special Rapporteur transmitted to the Governments concerned allegations he had received concerning violations of the right to life of over 3,700 persons in more than 73 countries. One hundred thirty-five cases concerned alleged extrajudicial executions or death threats of minors, 16 of whom were said to be below 10 years of age, the youngest only 9 months old; 168 cases concerned alleged violations of the right to life of women.* More than 700 persons were said to have been killed or threatened with death for exercising their right to freedom of opinion and expression, peaceful assembly and association.

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* However, these figures do not necessarily reflect the actual proportion of minors and women among the victims of alleged violations of the right to life, since they constitute cases in which the age or sex of persons identified by their names has been specifically indicated to the Special Rapporteur.

Urgent appeals

73. Since 14 December 1993, the date of the finalization of his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur has sent 217 urgent appeals concerning more than 1,300 persons to the following 52 countries: Algeria, Argentina, Azerbaijan, Bangladesh, Brazil, Burundi, Cambodia, Central African Republic, Chad, Chile, Colombia, Comoros, Djibouti, Ecuador, Egypt, El Salvador, Equatorial Guinea, Guatemala, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Kuwait, Kyrgyzstan, Malawi, Nicaragua, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Rwanda, Sierra Leone, South Africa, Sri Lanka, Sudan, Sweden, Tajikistan, The Former Yugoslav Republic of Macedonia, Togo, Turkey, Turkmenistan, United Kingdom of Great Britain and Northern Ireland, United States of America, Uzbekistan, Venezuela, Yemen, Zaire.

74. In 86 cases, the victims of alleged violations of the right to life have been identified to the Special Rapporteur as minors, 87 as women. Six urgent appeals concerned 41 identified minors living as "street children" in Brazil, Colombia and Guatemala. Furthermore, the Special Rapporteur urgently intervened on behalf of more than 200 persons after receiving information concerning alleged violations of the right to life in the context of demonstrations or other peaceful public manifestations in Argentina, Brazil, Chad, Colombia, Ecuador, Equatorial Guinea, Guatemala, Haiti, the Islamic Republic of Iran, Israel, Nicaragua, Pakistan, Panama, Paraguay, Peru, the Philippines, Rwanda, South Africa, Togo and Turkey.

75. Pursuant to Commission on Human Rights resolution 1993/64, the Special Rapporteur sent six urgent appeals to the Governments of Argentina, Colombia, Guatemala and Rwanda on behalf of members of several human rights organizations who had allegedly received death threats after availing themselves of United Nations procedures for the protection of human rights. Pursuant to Commission on Human Rights resolution 1993/39, the Special Rapporteur sent an urgent appeal to the President of Zaire in which he expressed grave concern for the safety of Mikuin Leliel Balanda, President of the ad hoc Working Group of Experts on southern Africa.

Other allegations

76. Allegations concerning the extrajudicial, summary or arbitrary execution of over 2,300 persons (49 of whom were identified as minors, 79 as women) were transmitted to the following 51 countries: Angola, Azerbaijan, Bangladesh, Brazil, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Cuba, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Kenya, Lebanon, Malawi, Malaysia, Mexico, Morocco, Myanmar, Nepal, Nigeria, Pakistan, Peru, Philippines, Rwanda, Sierra Leone, South Africa, Sri Lanka, Syrian Arab Republic, Tajikistan, Togo, Turkey, Venezuela, Yugoslavia, Zaire and Zimbabwe.

77. Forty-nine of these cases concerned alleged extrajudicial executions of minors, two of whom were living as "street children" in Brazil and Guatemala. More than 250 persons were said to have been extrajudicially killed in violation of their right to freedom of opinion and expression, peaceful

assembly and association in Brazil, the Central African Republic, Chad, China, Colombia, El Salvador, Ethiopia, Guatemala, Haiti, India, the Islamic Republic of Iran, Lebanon, Malawi, Nepal, Nigeria, Peru, South Africa, Togo, Turkey, Venezuela, Zaire and Zimbabwe.

78. In addition to these specific cases, allegations referring to questions related to the right to life in general terms were sent to the following 26 countries: Algeria, Azerbaijan, Bangladesh, Brazil, China, Colombia, Egypt, El Salvador, Haiti, India, Indonesia, Iran (Islamic Republic of), Israel, Kenya, Malawi, Malaysia, Mauritania, Morocco, Papua New Guinea, Philippines, Saudi Arabia, South Africa, Sri Lanka, Tajikistan, Turkey and Zaire.

Communications received from Governments

79. Since the finalization of his report to the Commission on Human Rights at its forty-ninth session, the Special Rapporteur received replies on cases transmitted by him in 1992 from the following Governments: Bangladesh, Cameroon, Chad, Colombia, Ethiopia, India, Iraq, Israel, Lesotho, Mexico, Myanmar, Nepal, Philippines, South Africa, Sudan, Turkey, United States of America, Venezuela.

80. Replies concerning allegations transmitted by the Special Rapporteur in 1993 were received from the Governments of: Algeria, Argentina, Azerbaijan, Bangladesh, Brazil, Chad, Chile, Colombia, Ecuador, Egypt, Guatemala, Haiti, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Kenya, Kuwait, Mexico, Morocco, Nepal, Nigeria, Panama, Philippines, Sri Lanka, Sudan, Sweden, Syrian Arab Republic, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yemen, Zimbabwe.

81. The following countries have not provided the Special Rapporteur with any replies to the cases transmitted by him in 1992: Afghanistan, Angola, Azerbaijan, Burundi, Cambodia, Chile, Dominican Republic, Equatorial Guinea, Honduras, Iran (Islamic Republic of), Mali, Pakistan, Paraguay, Rwanda, Togo, Ukraine, Yemen, Zaire.

82. The following countries have not provided the Special Rapporteur with any replies to the cases or general allegations transmitted by him in 1993: Angola, Burundi, Cambodia, China, Central African Republic, Comoros, Cuba, Djibouti, El Salvador, Ethiopia, Equatorial Guinea, Guatemala, Honduras, Kyrgyzstan, Lebanon, Liberia, Malawi, Malaysia, Mauritania, Myanmar, Pakistan, Papua New Guinea, Paraguay, Saudi Arabia, Sierra Leone, Tajikistan, The Former Yugoslav Republic of Macedonia, Turkmenistan, Uzbekistan, Yugoslavia, Zaire, Zimbabwe.

Follow-up

83. The Special Rapporteur transmitted the contents of the above-mentioned government replies to the sources of the allegations for comments and observations.

84. The Special Rapporteur sent letters in which he reiterated his request for information with regard to cases transmitted by him in 1992, for which until 27 April 1993 no replies had been received, to the following Governments (the number of outstanding cases is indicated in brackets): Angola (2), Azerbaijan (5), Bangladesh (18), Brazil (7), Cambodia (11), Cameroon (4), Colombia (76), El Salvador (39), Guatemala (60), Honduras (3), India (43), Iran (Islamic Republic of) (5), Israel (5), Mexico (4), Nepal (10), Pakistan (7), Philippines (7), South Africa (47), Turkey (95), Venezuela (11). A request for information on 106 outstanding cases was transmitted to the de facto authorities in Haiti.

85. The Governments of Bangladesh, Brazil, Cameroon, Colombia, India, Israel, Mexico, Nepal, the Philippines, Turkey and Venezuela provided information on some or all of these cases later during the year.

86. The Special Rapporteur sent follow-up letters on cases transmitted by him in 1992 and/or 1993, where replies were received but could not be considered as final, to the following Governments: Bangladesh, Brazil, Chad, China, Colombia, Ecuador, Guatemala, India, Iraq, Israel, Kenya, Lesotho, Malawi, Mexico, Myanmar, Peru, Sri Lanka, Turkey, Venezuela, Yemen.

C. Visits

87. From 8 to 17 April 1993, the Special Rapporteur visited Rwanda after he had received allegations of grave and massive violations of the right to life in the context of an armed conflict opposing Rwandese government forces and the armed opposition movement Rwandese Patriotic Front (RPF) since October 1990. The Special Rapporteur's report on this visit, which includes his findings, conclusions and recommendations, was published in August 1993 (E/CN.4/1994/7/Add.1).

88. From 24 May to 2 June 1993, the Special Rapporteur undertook a visit to Peru to look into allegations of violations of the right to life in this country. A report on this visit was published in November 1993 (E/CN.4/1994/7/Add.2).

89. During the forty-ninth session of the Commission on Human Rights, the leader of the Sri Lankan delegation reiterated an earlier invitation to the Special Rapporteur to visit Sri Lanka. The Special Rapporteur also received an invitation from the Government of Argentina to carry out in situ investigations into alleged death threats against journalists and human rights activists (see below, paras. 122-123). The Special Rapporteur also received invitations to conduct visits to Algeria and Colombia.

90. No progress has been made in the preparation of a possible visit to Turkey. The Special Rapporteur has reiterated his request to be invited to carry out a mission to China. Furthermore, he has approached the Government of India and expressed his interest in visiting that country, possibly together with the Special Rapporteur on the question of torture.

91. In resolution 1993/97, the Commission on Human Rights requested the Government of Indonesia to consider inviting the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special

Rapporteur on extrajudicial, summary or arbitrary executions to carry out a visit to East Timor. However, to date no such invitation has been forthcoming.

D. Cooperation with other United Nations procedures

92. From 15 to 20 December 1992, at the request of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, the Special Rapporteur undertook a mission to Croatia to investigate allegations of mass graves holding the remains of victims of war crimes. The report on the findings of this mission was transmitted in its entirety to the Commission of Experts established under Security Council resolution 780 (1992). A summary has been made public as annex I to the report of the Special Rapporteur on the former Yugoslavia to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/50; see also below, chapter V).

93. From 16 to 27 August 1993, the Special Rapporteur participated in the field mission of the Ad Hoc Working Group of Experts on southern Africa to Botswana and Zimbabwe.

94. During his visits to Geneva, the Special Rapporteur has held informal consultations with several other special rapporteurs and members of working groups of the Commission on Human Rights. The Special Rapporteur also met with Committee on the Rights of the Child for an exchange of views on the protection of the right to life of children in Rwanda and Peru. During the World Conference on Human Rights in Vienna, he took part in several meetings of special rapporteurs, representatives and members of working groups of the Commission on Human Rights and, acting as their spokesperson, presented a common paper to the plenary session of the World Conference.

95. Letters transmitting copies of the allegations sent to the respective Governments and asking to be provided with comments and observations on the situation of the right to life were sent to the United Nations field operations in Angola (UNAVEM), Cambodia, El Salvador (ONUSAL) and Haiti. The Special Rapporteur also sent a letter to the head of UNOSOM II in which he requested to be provided with information regarding violations of the right to life and expressed concern at allegations involving members of the international peace-keeping forces in a number of killings.

96. Furthermore, the Special Rapporteur consulted with the United Nations High Commissioner for Refugees (UNHCR) on a number of specific cases involving refugees and, more particularly, before and during the mission to Rwanda.

97. During his missions to Rwanda and Peru, the Special Rapporteur greatly benefited from excellent cooperation from the UNDP representatives in Kigali and Lima.

E. Other activities to promote the mandate

98. In order to enhance the public awareness of the working of his mandate, the Special Rapporteur held a number of press conferences during his visits to both Rwanda and Peru. The report on these missions was accompanied by press

statements. The Special Rapporteur also held a number of press conferences during his visits to the Netherlands and Australia (see below, para. 100).

99. In addition, the Special Rapporteur attended the following meetings and conferences: In January 1993, he was invited to participate in a meeting to prepare for the World Conference on Human Rights, organized by the Carter Center in Atlanta, United States of America. In February 1993, the Special Rapporteur spoke to the African Regional Meeting of the International Association of Young Lawyers in Douala, Cameroon, about the role of United Nations mechanisms in the protection of human rights. Also in February 1993, the Special Rapporteur participated in a meeting on "Human Rights at the eve of the twenty-first century", organized by the Council of Europe, where he presided over the working group on "Human rights and development". Twice, in March and June 1993, the Special Rapporteur was invited by the University of Bochum, Germany, to participate in meetings aimed at the establishment of a non-governmental organization for the promotion of and respect for humanitarian law.

100. Furthermore, in September 1993 the Special Rapporteur was invited by the Dutch section of Amnesty International to deliver a speech on the role of the United Nations in efforts to prevent extrajudicial executions and disappearances. Also in September 1993, the Special Rapporteur attended as a "special guest" an international commission of inquiry organized by Amnesty International's United States section to examine the practice of capital punishment in that country. Finally, in October 1993, the Australian section of Amnesty International invited the Special Rapporteur to carry out a tour through several Australian cities and speak on the role of United Nations mechanisms with regard to the protection of the right to life and the prevention of extrajudicial executions and disappearances, as well as the role of non-governmental organizations in this field.

IV. SITUATIONS

A. General

101. In this chapter, the Special Rapporteur gives an account of the reports and allegations that have come before him concerning extrajudicial, summary or arbitrary executions. It describes the way he has dealt with this information by sending urgent appeals and letters to the Governments concerned as well as the replies he has received. Follow-up action taken by the Special Rapporteur is also mentioned. (The contents of all replies received from Governments have been transmitted to the sources of the allegations. For reasons of brevity, this is not mentioned specifically for each country.) Where appropriate, the Special Rapporteur included country-specific observations, comments and recommendations.

102. It may be noted that the dates of urgent appeals sent by the Special Rapporteur and of communications received from Governments are included in parenthesis in the paragraphs which describe their contents. All urgent appeals sent until 22 November 1993 are reflected in this report. The communications described as "other allegations" were sent on three occasions, on 27 April 1993, 29 July 1993 and 24 September 1993. Allegations of extrajudicial, summary or arbitrary executions received by the Special Rapporteur at a later date will be dealt with in his report to the Commission on Human Rights at its fifty-first session. Follow-up letters were sent to the Governments concerned in late September 1993, with the exception of the follow-up letter to the Government of the United States of America which could only be sent on 19 November 1993.

103. All communications received from Governments by 22 November 1993 were taken into consideration in the preparation of the present report. Replies and other information that reached the Special Rapporteur at a later date will be included in his report to the Commission on Human Rights at its fifty-first session.

104. Due to restrictions on the length of documents presented to the Commission on Human Rights, the Special Rapporteur was forced to reduce considerably the detail in which cases of alleged extrajudicial, summary or arbitrary executions or death threats are presented in this report. In most cases, only the names and a very short description of the events could be included in the account of the Special Rapporteur's activities in a given country. However, all details of these cases as transmitted to the Governments concerned are available in the files of the Secretariat.

B. Country situations

Algeria

Communications sent

105. The Special Rapporteur transmitted to the Government of Algeria allegations according to which three Special Courts had been set up by a decree of October 1992 providing for accelerated and secret justice for those accused of "terrorist" offences and doubling the sentence for such offences.

It was reported that this law was retroactive: any case under instruction or awaiting judgement could be transferred to the Special Courts and thus be subjected to increased penalties which did not apply at the time of the offence.

106. The Special Rapporteur expressed his particular concern at reports that these Special Courts have passed 66 death sentences. Those sentenced to death were said to have no right to appeal but could only seek a review by cassation by the Supreme Court, which only rules on procedures without re-examining the facts. The Special Rapporteur asked the competent authorities to provide him with information regarding these issues.

107. The Special Rapporteur sent an urgent appeal to the Government of Algeria after being informed that the following 41 persons were sentenced to death by a Special Court on 26 May 1993: Abderrahim Hocine, Rachid Hechaichi, Karim Fennour, Jamal Chikou, Belkacem Tahri, Jamal Laski, Mabrouk Bakour, Ahmed Dahmoun, Meliani Mansouri, Youcef Boulesba, Rehda Boucherif, Said Soussan, Mohamed Aimet and 28 others (1 July 1993).

Communications received

108. The Government of Algeria replied to the allegations transmitted by the Special Rapporteur and informed him of the following: those sentenced to death on 26 May 1993 had benefited from a fair trial and were sentenced in conformity with the legislation in force at the time they committed their crime, a bomb attack at Algiers airport in August 1992. This legislation provided for capital punishment. The Government further informed the Special Rapporteur that the Special Courts were instituted in Algeria in response to acts of terrorism and subversion spreading terror among the civilian population. The offences qualified as "terrorism" have been specified in a law decree of 30 September 1992. This decree was not retroactive. The Special Courts, composed of five judges, were "special" only with regard to the nature of the offences they were dealing with. The rights of defendants to a fair trial were fully ensured, including the right to review by cassation by the Supreme Court (12 October 1993).

Follow-up

109. The reply received from the Government of Algeria has been transmitted to the source for comments and observations. It should be noted that the source has informed the Special Rapporteur that six of the above-mentioned persons (Abderrahim Hocine, Rachid Hechaichi, Karim Fennour, Jamal Chkou, Meliani Mansouri and Said Soussan) were executed by firing squad on 31 August 1993 after the Supreme Court had upheld their sentences.

110. In November 1993, a delegation of the Algerian Government met with the Special Rapporteur to discuss in detail the concerns expressed by the Special Rapporteur with regard to the above-mentioned anti-terrorism decree. During this meeting, the representatives of the Algerian Government also invited the Special Rapporteur to carry out a visit to Algeria.

Observations

111. The Special Rapporteur wishes to express his great appreciation of the willingness to cooperate shown by the Government of Algeria. The meeting with a delegation of experts in the Algerian justice system was a welcome opportunity for him to deepen his understanding of the situation in the country and the anti-terrorism legislation. The Special Rapporteur thanks the Government of Algeria for its invitation to carry out a mission to that country. The date of the visit will be determined in further consultations with the authorities.

112. The Special Rapporteur fully understands the difficulties faced by the Government in its efforts to curb violent attacks by Islamist militants which have caused considerable human and material damage. However, he remains concerned that the October 1992 decree provides for an extension of capital punishment to a number of offences previously punishable by life imprisonment as well as restrictions on the right to an adequate defence, in particular, the possibility of a prolongation of pre-trial detention up to 12 days, time-limits set for the completion of the judicial stages of the proceedings, the fact that the choice of a lawyer is subject to approval by the judge and the right of judges to impose sanctions against lawyers during the trial and to bar them from exercising their functions. This means that the level of guarantees enjoyed by defendants in proceedings before the Special Courts is considerably lower than in trials before ordinary jurisdictions.

113. The Special Rapporteur is also concerned that the appeal procedure against convictions and sentences passed by the Special Courts, namely the review of cassation before the Supreme Court, does not ensure the full right to appeal, as the Supreme Court only reviews legal aspects and not facts. Furthermore, the decree provides for the imposition of capital punishment on persons from 16 to 18 years of age. Although, as stated by the representatives of the Government of Algeria, this provision has never been applied, it constitutes a breach of the relevant international instruments.

114. While until July 1993, 66 death sentences had been reported to the Special Rapporteur, recent information brought to his attention indicates that more than 350 death sentences were pronounced by Special Courts between February and November 1993. The Special Rapporteur is deeply concerned at this increase and will continue to monitor closely all developments in this area. He calls upon the Government of Algeria to revise its anti-terrorism legislation so as to make it conform to the standards set forth in the pertinent international instruments.

Angola

115. The Special Rapporteur received alarming reports about violations of the right to life in Angola. A particularly high number of killings was said to have been perpetrated both by government forces and by members of the Uniao Nacional para a Independência Total de Angola (UNITA) in Luanda between 31 October and 3 November 1992. Extrajudicial executions were reported to have continued throughout 1993. No information has been received as concerns measures to prevent such executions from taking place or to bring to justice those responsible. The extreme gravity of the situation was

brought to the attention of the Security Council on 25 May 1993, when the Secretary-General reported (S/25840) that 1,000 persons were dying every day as a direct or indirect result of the fighting . In his report to the Security Council on 27 October 1993 (S/26644), the Secretary-General underlined that this figure was a conservative estimate. Large numbers of civilians, including women, children and elderly persons, had died in cities under siege, as a result of lack of food or after the explosion of mines.

Communications sent

116. The Special Rapporteur transmitted to the Government of Angola allegations he had received concerning the extrajudicial execution at different times of 1992 of the following nine persons, among them one woman, in the context of conflicts between government forces and members of the Front pour la Libération de l'Etat de Cabinda (FLEC) in September 1992: Deacon Arao, Pascoal Pitra, Pedro Mbachi Ngimbi, Tereza Mzovo, Joao Maria Taty, Afonso Foumbo Mabiala, Joao Bento, Joao Lourenço and Pascoal Mazunga. The Special Rapporteur also transmitted the case of André Segunda.

117. Copies of these allegations were also sent to the head of the United Nations Verification Mission in Angola (UNAVEM), together with a request for any information available concerning violations of the right to life in the country (11 October 1993).

Communications received

118. At the time of the finalization of the present report, no reply had been received from the Government of Angola.

Observations

119. The Special Rapporteur is deeply concerned at the alarming situation in Angola and, in particular, at the recent reports about massive violations of the right to life imputed to all parties to the conflict. The fact that only nine cases could be sent by the Special Rapporteur to the Government of Angola may be explained by the general character of the reports that have come before him. A further number of specific cases were received after the date of the most recent transmission of allegations to the Government. They will be reflected in the Special Rapporteur's report to the Commission on Human Rights at its fifty-first session.

120. The Special Rapporteur will continue to monitor closely the situation in Angola. He intends to do so in close cooperation with UNAVEM. In a letter to the head of this operation, the Special Rapporteur indicated his readiness to collaborate with UNAVEM in any manner that might be considered appropriate, including through a visit to Angola. In the light of the gravity of the reports summarized above, the Special Rapporteur urges the international community to give priority attention to the situation in Angola. Particular emphasis should also be given to human rights issues within UNAVEM.

Argentina

Communications sent

121. The Special Rapporteur sent four urgent appeals to the Government of Argentina. Two (3 February 1993; 27 April 1993) concerned alleged death threats by police against Pedro Salvador Aguirre. Death threats were also reported to have been made by members of the police against Hebe de Bonafini, President of the organization Madres de Plaza de Mayo (26 August 1993). In addition, the Special Rapporteur transmitted to the authorities concerns for the lives of the following journalists and members of their families, who had allegedly received death threats in relation to their critical reporting about the Government: Hernán López Echague, Marcelo Bonelli, Magdalena Ruiz Guiñazú, Mónica Cahen D'Anvers and Graciela Guadalupe (14 September 1993).

Communications received

122. The Government of Argentina replied to the reports of death threats against journalists by inviting the Special Rapporteur to carry out a visit to Argentina in order to verify in situ the full functioning of all institutional arrangements to guarantee the right to life and the exhaustive investigations being carried out by the Executive and the Judiciary to clarify illegal acts against press institutions and their employees (27 September 1993).

Follow-up

123. In reply to this letter of invitation, the Special Rapporteur expressed his appreciation of the willingness to cooperate shown by the Government of Argentina. He pointed out, however, that, before being in a position to decide whether the situation in Argentina warranted a visit by the Special Rapporteur, he would need concrete and factual details concerning the allegations transmitted and, consequently, reiterated his request to the Argentine authorities to provide him with such information. The Special Rapporteur also explained to the Government of Argentina that, due to time and budgetary constraints, only a very small number of visits could be carried out each year, and that it was therefore necessary to set priorities. On the basis of the information received, the overall situation with regard to the right to life in Argentina did not appear to place this country in the most urgent category (26 October 1993).

Azerbaijan

124. The Special Rapporteur has received a number of reports concerning serious violations of the right to life in the context of the ongoing armed conflict between the armed forces of Azerbaijan and forces composed of Armenians fighting for self-determination and the independence of Nagorno-Karabakh, an enclave within the territory of Azerbaijan, populated mainly by ethnic Armenians. Thousands of civilians are said to have lost their lives since 1988.

125. Various sources expressed particular concern at the resurgence of the conflict in 1992. Since January 1992, the armed forces of Azerbaijan were said to have used military airplanes and helicopter gunships in attacks

on civilian targets in a number of towns and villages. It was reported that 500-kilogramme bombs and cluster bombs were dropped on civilian homes, killing and wounding many of their inhabitants and causing great damage. Reportedly, the armed forces also employed heavy weapons such as "Grad BM-21" long-range multiple missile launchers, tanks and artillery in highly populated areas. The death toll among civilians from June 1992 through January 1993 has been estimated at 1,500. Air raids, shelling and heavy artillery attacks were reported in and near Stepanakert as well as several towns and villages in the regions of Martakert and Askeran.

126. The Special Rapporteur has also received reports of extrajudicial executions by members of the Azerbaijani armed forces of civilians or former combatants no longer taking part in hostilities. In several cases, the victims had allegedly been taken hostage and were later killed by their captors.

Communications sent

127. The Special Rapporteur sent two urgent appeals to the Government of Azerbaijan by which he expressed concern at the alleged imminent execution of death sentences passed by the Military Collegium of Azerbaijan's Supreme Court. According to the information received, there is no right to appeal against death sentences passed by the Military Collegium. The urgent appeals sent by the Special Rapporteur concerned Sergej Alexandrovitch Grebenkov (22 February 1993) and five Russian privates: Vladislav Kudinov, Konstantin Tukish, Yaroslav Yevstigneyev, Andrej Filippov and Mikhail Lisovoy (21 May 1993).

128. The Special Rapporteur also transmitted to the Government of Azerbaijan a number of specific cases which were said to have occurred in the context of the armed conflict. They concerned the following four persons, who were said to have been killed while held in detention by Azerbaijani security forces: Youri Housepi Osipovitch Dshangiryan, Vitali Verdyan, Youra Goulyan, Hratchik Shabazyan. He also retransmitted to the authorities the case of Sergej Alexandrovitch Grebenkov, who was found dead in his cell shortly before the scheduled date of his execution.

129. The Special Rapporteur also sent a letter to the Government of Azerbaijan by which he transmitted the general allegations described above and requested to be provided with information in that regard.

Communications received

130. The Government of Azerbaijan replied to the Special Rapporteur's letter containing general concerns about the situation of the right to life in the country, informing him that the Azerbaijani Republic was defending its territorial integrity, independence and sovereignty against unlawful encroachments. The Government also stated that, as a result of large-scale aggression on the part of Armenia, about 20 per cent of the territory of Azerbaijan had been annexed by regular army forces with the participation of Armenian military formations from Nagorno-Karabakh and foreign mercenaries, and accused the Government of Armenia of pursuing a policy of genocide and "ethnic cleansing". The number of dead among the peaceful population,

essentially women, old people and children, was said to total some 17,000. Furthermore, hundreds of prisoners taken by the Armenian forces had been brutally murdered. Journalists covering the events in Azerbaijan and Armenians advocating a peaceful dialogue with Azerbaijan were also said to have been killed by Armenian forces (22 September 1993).

Observations

131. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Azerbaijan in providing him with the above-mentioned reply. However, he wishes to note that no reference has been made by the authorities to the allegations attributing human rights violations to Azerbaijani government forces nor to any steps taken to investigate such allegations or to prevent abuse of force in the context of the armed conflict. No details have been provided on the concrete cases transmitted by the Special Rapporteur in 1992 and 1993.

132. The Special Rapporteur remains concerned at the reports of violations of the right to life and, in particular, large numbers of civilian casualties in the context of the conflict in Nagorno-Karabakh. He will continue to pay special attention to this problem and may envisage requesting the Government of Azerbaijan to invite him to carry out a visit to the area.

Bangladesh

133. The Special Rapporteur received reports about a number of positive steps towards an increased protection of human rights taken by the Government of Bangladesh, namely an amnesty of prisoners detained under the previous government, a review of charges brought against political opponents under the previous government, and the opening of investigations into several cases of human rights violations. However, he also continued to receive many reports and allegations indicating that human rights abuses, including extrajudicial, summary or arbitrary executions, continue to occur in Bangladesh.

134. Different sources expressed particular concern at the situation in the Chittagong Hill Tracts, a remote area under military control in south-east Bangladesh, traditionally inhabited by tribal people known as Jumma. Negotiations between the Government of Bangladesh and the Shanti Bahini, the armed wing of the tribal political organization Jana Shanghati Samiti (People's Solidarity Association), aiming at regional autonomy, have not yet led to a political solution of an armed conflict which have opposed the government security forces and the Shanti Bahini since the mid-1970s. While the latter are said to have been responsible for a large number of killings, many violations of the right to life are said to have occurred in the context of the counter-insurgency policy pursued by the Government of Bangladesh. Those allegedly responsible for extrajudicial, summary or arbitrary executions are members of the security forces as well as paramilitary forces reported to be cooperating with them, such as the "Bangladesh Rifles" or the "Ansar" guards.

135. It was further reported that members of the security forces responsible for human rights violations enjoy virtual impunity from the law. In this regard, the Special Rapporteur was informed that section 132 of the Code of

Penal Procedure of Bangladesh states that no prosecution against any person for any act purporting to be done under this chapter (Unlawful assembly) shall be instituted in any court, except with the sanction of the Government. Reportedly, no magistrate, police, civil or military officer or any subordinate officer or soldier or volunteer doing any act in obedience to any order which he was bound to obey shall be deemed to have committed an offence thereby. Furthermore, the Special Rapporteur was informed that under the Presidential Security Force (Amendment) Act 1992, passed on 15 July 1992, officers of the security forces are granted legal immunity if they shoot or kill anyone whose presence or movement is believed to threaten the physical security of the Prime Minister and of certain other important persons.

136. With regard to the death penalty, the Special Rapporteur received information according to which the Parliament of Bangladesh had approved, on 1 November 1992, the Curbing of Terrorist Activities Act 1992. This law reportedly extended the death penalty to a number of offences for which the maximum punishment previously was imprisonment. Nine offences listed under the heading of terrorism or anarchy were said to be punishable with from five years' imprisonment to the death penalty, without relating specific offences to specific punishment. The Act reportedly provided that investigations of such offences were to be completed within 30 (exceptionally 45) days and that detainees could not be granted bail. The trial, held before a special tribunal, was to be completed within 60 (exceptionally 90) days.

Communications sent

137. The Special Rapporteur transmitted to the Government of Bangladesh communications concerning the alleged extrajudicial, summary or arbitrary execution of over 30 persons, 5 of them women. Four cases concerned alleged violations of the right to life of minors.

138. The Special Rapporteur sent three urgent appeals to the Government of Bangladesh after being informed of the alleged imminent involuntary repatriation of a group of Muslim (Rohingya) refugees from Rakhine State, Myanmar (31 December 1992); of the imminent execution of the death penalty against Munir Hussain, allegedly in breach of internationally recognized fair trial guarantees (23 July 1993); and of death threats against novelist Taslima Nasran (26 October 1993).

139. The Special Rapporteur transmitted two communications to the Government of Bangladesh which contained the general concerns summarized above as well as the following specific cases of alleged violations of the right to life (27 April 1993 and 29 July 1993):

(a) Chempu Chakma, Mohini Ranjan Chakma, Mohini Bala Chakma, Master Nittamay Chakma (10), Subilash Chakma, Shabika Chakma (7), Nirashadebi Chakma (17), Prasannakumar Chakma, Nishi Kumar Chakma, Ramkamal Chakma and several unidentified civilians were reportedly extrajudicially executed by members of the security forces in the Chittagong Hill Tracts;

(b) Fulakamal Chakma, Goladhan Chakma, Ahmed Mominuddin and Momina Khatum reportedly died as a consequence of torture while held in detention by the security forces. A man called Quader was also said to have died while in police custody;

(c) Hussain Anwar, Ali Wajed, Islam Shahidul, Muddin Hasiruddin, Rahman Azizar, Zaidur and Islam Manirul (16) were reportedly killed by members of the "Bangladesh Rifles" in the Chittagong Hill Tracts when they tried to prevent the soldiers from stealing cattle in their villages;

(d) Moin Hussain Raju was reportedly killed by police during a peaceful student demonstration on the campus of Dhaka University.

Communications received

140. The Government of Bangladesh provided replies regarding a number of these cases. With regard to the death sentence against Munir Hussain, the Government reported that three courts, namely the Sessions Court, the High Court Division of the Supreme Court and the Appellate Division of the Supreme Court had reached the conclusive opinion that Mr. Hussain had murdered his wife. He had been defended by competent lawyers. Allegations concerning shortcomings in the right to a fair trial were without basis. His trial, conviction and execution was not extrajudicial, summary or arbitrary (2 August 1993).

141. With regard to the cases transmitted by the Special Rapporteur in his letter of 27 April 1993, the Government of Bangladesh reported that most deaths had occurred during armed encounters between government forces and the Shanti Bahini, or as a result of armed attacks by the latter. Several of those killed were said to have been active members of the insurgents. One of them, Fulkamal Chakma, committed suicide in his cell; one other, Goladhan Chakma, died of natural causes while being escorted by a patrol towards Guimara army camp (19 October 1993).

142. In the same letter, the Government of Bangladesh repeated information provided in an earlier communication (27 May 1993) concerning a number of the allegations transmitted by the Special Rapporteur in 1992. These incidents were described as terrorist attacks in which the security forces had not been involved at all; a clash in which no innocent civilians had been affected; and one case in which law enforcement agents had to open fire to prevent the escape of a terrorist.

143. The Government of Bangladesh also informed the Special Rapporteur that the information whereby a religious group, infuriated by passages in a novel published by Taslima Nasreen, had condemned her to death, were false, concocted and politically motivated. The group itself had denied in a press conference having pronounced such a condemnation. After the publication of the false reports, the writer had requested, and was granted, police protection. Her normal life had not been restricted or disturbed in any way. This has been confirmed by the source of the allegation (17 November 1993).

Follow-up

144. The Special Rapporteur addressed a letter to the Government of Bangladesh in which he requested additional information concerning the replies received during 1992 (see E/CN.4/1993/46, paras. 115-117), as well as on 27 May and on 2 August 1993. These requests concerned, in particular, details on the grounds for the Government's affirmation that the reports of alleged violations of the right to life were without factual basis. With regard to the massacre at Logang cluster village (E/CN.4/1993/46, paras. 116-117), the Special Rapporteur asked to be provided with additional information concerning the inquiry carried out, the text of the decision which concluded the investigation, as well as clarifications concerning the role of the "Bangladesh Rifles" and other paramilitary groups and measures adopted to prevent excessive use of force in counter-insurgency operations.

145. The contents of the replies provided by the Government to the cases transmitted in were communicated to the sources of the allegations. One source already provided the Special Rapporteur with comments, reinforcing the earlier allegations.

Observations

146. The Special Rapporteur appreciates the replies provided by the Government of Bangladesh to a number of the cases transmitted. He has taken note with appreciation of the above-mentioned reports of measures taken with a view to better protection of human rights. However, the Special Rapporteur remains concerned at the situation in the country, particularly since similar allegations continue to be received. In the process of follow-up, the disparity between the allegations received from different sources and the information provided by the Government in its replies has increased further, after additional details have been provided by a source. In this context, the Special Rapporteur wishes to express his continued interest in carrying out an on-site visit to Bangladesh. Such a visit had been requested in 1992, in connection with the killings at Logang cluster village in April 1992 (see E/CN.4/1993/46, paras. 112, 113, 116, 117). The Government of Bangladesh had informed the Special Rapporteur that, since an official commission had investigated the incident, a further investigation would not serve any useful purpose. In a letter to the authorities, however, the Special Rapporteur reiterated his interest in visiting Bangladesh, since the objective of his visit, rather than carrying out an investigation which falls within the responsibility and competence of the local authorities, would be to gather first-hand experience of the situation in the country so as to be in a position to evaluate better the information that comes before him and to make recommendations concerning the protection of the right to life.

Brazil

147. As in former years, the Special Rapporteur has received various reports indicating that violence against "street children" and in the context of land conflicts in rural regions are the two principal causes for violations of the right to life in Brazil.

148. As regards "street children", the Special Rapporteur was informed that in February 1992, a Parliamentary Commission of Inquiry published a report on "The extermination of minors" and concluded that the participation of members of the civil and military police in the killings of children and adolescents was far from being exceptional. According to this commission, police killings were the third highest cause of homicide of children and adolescents in Brazil. "Death squads", often composed of off-duty civil and military police officers hired by local shopkeepers to "clean up" the streets where they have their business, are also often reported to be responsible for killings, death threats and acts of harassment and intimidation against "street youth". Allegedly, local police often support such "death squads" and sometimes even participate in their operations.

149. The Special Rapporteur has recently received information according to which, during the first half of 1993, 320 "street children" were killed in Brazil. Particularly disturbing reports referred to mass killings by members of the military police of "street children" in shantytowns of Rio de Janeiro, and about threats to the safety of eye-witnesses to these massacres who presented their testimony in judicial investigations and identified those responsible.

150. The Special Rapporteur also received numerous reports and allegations concerning extrajudicial killings of and death threats against peasants, particularly if they are of indigenous origin, who claim their property rights to land. These rights are said to be guaranteed in the 1988 Constitution. Persons representing these peasants in their efforts to have their land demarcated, such as human rights workers, trade unionists, lawyers or religious figures, are also often said to be victims of executions or death threats. The States of Pará and Mato Grosso do Sul have repeatedly been named as being particularly affected by this phenomenon. Several observers have denounced the persistent failure on the part of the authorities to assure effective protection for the peasants and to impose sanctions upon those responsible for killings and threats. According to the information received, in most cases these are gunmen hired by local landowners who are said to be enjoying support from the police.

151. The killing in August 1993 of at least 50 Yanomami indians in the north of Brazil by a group of garimpeiros (goldminers) who were said to have threatened them on earlier occasions was reported to the Special Rapporteur as a particularly serious case in which the authorities failed to protect the right to life.

Communications sent

152. The Special Rapporteur communicated to the Government of Brazil allegations concerning violations of the right to life of 128 persons; 20 cases concerned alleged violations of the right to life of women. Ten urgent appeals were sent on behalf of persons whose life and physical integrity was said to be under threat. Three urgent appeals concerned particularly grave mass killings. In three letters to the authorities, the Special Rapporteur transmitted seven further cases of alleged extrajudicial, summary or arbitrary executions. Twenty-five cases concerned alleged violations of the right to

life against "street children". Ten cases were said also to constitute violations of the right to freedom of opinion and expression, peaceful assembly and association.

153. The Special Rapporteur urged the Government of Brazil to ensure effective protection of the right to life of:

(a) "Street child" Valdeci Souza Santos, after the killing of six others: Carlos Henrique Moreira, Carlos Andre dos Santos, Antonio Carlos de Oliveira, Alexandre Silva Neves, Carlos Henrique de Souza Santos and Alexandre Marcio Pacheco de Oliveira (31 December 1993); "street children" Ademir Silveira dos Santos and Moises Silva do Nascimento, as well as street educators Father Horacio Caballero and Sister Maria Cecilia Garez Leme (30 April 1993); human rights activist Raimundo Nonato Souza Santos (16 August 1993); "street children" Fabio de Oliveira (Barao) (13), Michael Andre de Aguiar (13), Marcos Pereira Muniz (14), Fabio Ribeiro (15), Elizabeth Cristina (Beth) de Oliveira Maia (16), Rogerio da Silva (16), Sergio Dias Gomes (16), Leonardo Teixeira de Sa, as well as Neilton Pereira dos Santos and Wagner dos Santos, all of whom had eye-witnessed the killing of seven "street children" in Rio de Janeiro (15 October 1993);

(b) Marilene Lima da Souza, Vera Lucia Flores, Denise Vasconcelo, Euzilar Joana da Silva Oliveira, Edneia Santos Cruz and Teresa Souza Costa, mothers of children who had disappeared in June 1990, after the killing of two of them, Edmeia da Silva Eusebio and Sheila da Conceiçao (28 January 1993);

(c) Trade unionists Valdinar Pereira Barros and Francisco Geronimo da Silva (22 December 1992); missionary Elsa Rosa Zotti (13 July 1993); lawyers Valdenia Brito, Katia Costa Pereira and Jayme Benvenuto de Lima Jr. (2 August 1993); nun and lawyer Cecilia Petrina de Carvalho, municipal counsellor Analdino Laranjeira and Bishop Pedro Casaldáliga (22 November 1993).

154. The Special Rapporteur also sent urgent appeals to the Government of Brazil after receiving reports of the killings of "street children" Paulo Roberto de Oliveira, Marcelo Candido de Jesus, Valderina Miguel Rogerio de Almeida, Paulo Jose da Silva, Anderson Thome Pereira, Marcos Antonio Alves da Silva, Gamabzinho and Nogento in Rio de Janeiro (30 July 1993); approximately 50 Yanomami indians in northern Brazil (26 August 1993); Gilberto Cardoso dos Santos and 20 others (names available with the Secretariat) in the Vigario Geral shantytown of Rio de Janeiro (7 September 1993).

155. The Special Rapporteur transmitted to the Government of Brazil the alleged extrajudicial, summary or arbitrary execution of:

(a) "Street child" José Alves da Cunha (13);

(b) Local counsellor Renildo José dos Santos, trade union leader Arnaldo Delcidio Ferreira, Paulo Henrique da Silva, trade union leader Amancio Francisco Dias, Reinaldo Silva and agricultural cooperative leader Joaci Rodrigues da Silva.

Communications received

156. In 1993, the Government of Brazil provided the Special Rapporteur with replies informing him that inquiries had been opened and continued to be carried out into alleged death threats against Nivaldo Vieira do Nascimento (see E/CN.4/1993/46, para. 125 (g)) (1 July 1993) and lawyers Valdenia Brito, Katia Costa Pereira and Jayme Benvenuto de Lima (2 November 1993). All four were granted special protection. The latter three subsequently considered that police protection was no longer necessary and requested its suspension. The Government of Brazil also informed the Special Rapporteur that judicial investigations had been opened into the massacre of "street children" in Rio de Janeiro, and that the eye-witnesses were being protected by military police in the "Witnesses House" in Rio de Janeiro (2 November 1993).

157. With regard to the massacre of 21 people in Vigario Geral, the Government of Brazil informed the Special Rapporteur that the allegations were accurate, and that the crime had roused the abhorrence of the Brazilian Government and the society as a whole. The authorities publicly condemned the massacre as an inadmissible act of revenge. As a consequence, the Minister of Justice announced the creation of a special unit within the Federal Police to investigate crimes perpetrated by gangs and death squads in Brazil, with particular attention to the activities of death squads in Rio. As concerns the police investigation into the crime of Vigario Geral, 28 military police officers had been arrested and warrants had been issued against five others. The commander under whose orders those accused served was dismissed. Legal procedures were initiated to grant compensation payments to the relatives of the victims (15 November 1993).

158. The Government of Brazil also provided information with regard to the following cases transmitted in 1993:

(a) Raimundo Nonato Souza Santos: in response to his claim that the State police in Manaus was giving paramilitary training to children from 9 to 17 years old, this police project was suspended by preliminary ruling on 18 August 1993 and proceedings were initiated by the Attorney for Children and Youth of the State of Amazonas and on the Federal level. The municipality of Manaus was called upon by the federal authorities to provide an alternative form of assistance to the 348 boys involved (10 November 1993);

(b) Elsa Rosa Zotti: the State authorities of Mato Grosso were instructed to provide the necessary protection to the missionary (11 November 1993);

(c) José Renildo dos Santos: the allegations corresponded to the findings of the police inquiry into the case. Six persons, namely the mayor of Coqueiro Seco, his father and four military police officials were formally charged with murder with aggravating circumstances. Their preventive detention was requested (11 November 1993);

(d) The massacre of Yanomami indians: an ad hoc bilateral commission under the joint responsibility of the Brazilian and Venezuelan Ministries of External Relations was set up and had started investigating the events, which occurred inside Venezuelan territory. The commission held its first meeting

to exchange information on 21 September 1993. The Brazilian authorities had arrested two suspects and arrest warrants for 19 others had been issued (18 November 1993).

159. In addition, the Government of Brazil informed the Special Rapporteur about the recent sentence of 516 years' imprisonment imposed on a police officer found responsible for the deaths of 18 inmates of Parque Sao Lucas prison in Rio de Janeiro in February 1989 (23 November 1993).

Follow-up

160. The Special Rapporteur sent a letter to the Government of Brazil in which he requested additional information on a number of cases for which the authorities had provided replies in 1992. These requests concerned the current status of investigations that had been opened as well as the concrete measures adopted to protect persons under threat, and the progress of the inquiries into alleged death threats and attempts of extrajudicial, summary or arbitrary executions (22 September 1993).

161. By the same letter, the Special Rapporteur transmitted to the Government of Brazil additional information he had received concerning the investigation into the killing of 111 prisoners in the Sao Paulo Detention House in October 1992. This case had been transmitted by the Special Rapporteur in 1992 and the Government had forwarded a reply (see E/CN.4/1993/46, para. 130). Several sources had alleged serious shortcomings in the way the inquiries had been carried out, particularly with regard to the gathering and preservation of evidence. It was also pointed out that none of the official investigations concluded by attributing individual responsibility to any of the military police officers involved, despite there being sufficient evidence to do so. However, it was reported that judicial proceedings had been opened before a military court in Sao Paulo. The Special Rapporteur asked the Government of Brazil to provide him with information on the allegations summarized above, the current state of the proceedings, any sanctions imposed on any of the officers involved, any compensation granted to the families of the victims, as well as any measures adopted to prevent similar incidents from happening again in the future.

162. The Government of Brazil also informed the Special Rapporteur that the death threats against Antonio Fernandes Pereira and Isaias Mendonça Araujo (see E/CN.4/1993/46, para. 125 (d)) had been investigated by the police and the public prosecutor of Itaguatins. It was established that they had come from their own relatives in the context of land disputes (15 November 1993).

163. During his visit to Geneva in November 1993, the Special Rapporteur met with a representative of the Brazilian Government who provided him with additional information concerning the efforts undertaken by the Brazilian authorities with a view to investigating past violations of the right to life and preventing the occurrence of similar incidents in the future. In particular, the Special Rapporteur was informed about projects to set up a special unit within the Federal Police to investigate killings by "death squads" and to carry out a reform of the judiciary, as well as measures directed at changing the mentality of the police and diminishing frictions between the federal and State security forces. There are plans to introduce

new legislation under which grave human rights violations would be considered as federal offences and which would place the military police under the orders of the civilian judiciary. The Special Rapporteur was further informed that efforts to curb impunity were widely supported by the civilian population, as was shown by a recent demonstration with over 20,000 participants in Rio de Janeiro.

Observations

164. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of Brazil. He has taken note with satisfaction of the measures announced by the authorities to bring to justice the perpetrators of human rights violations and encourages them to continue their efforts in this regard. It is hoped that the increasing awareness of both the authorities and the society, as manifested in the above-mentioned demonstration, may lead to increased protection for the right to life in Brazil. As to the difficulties arising out of the division of tasks between federal and State security forces, the Special Rapporteur wishes to stress that the obligation of the federal Government under international law to investigate human rights abuses, bring to justice those responsible, ensure victims' rights and prevent further abuses, extends to all components in the federative structure. Thus, legislation and practice in all States must conform to the international standards.

165. However, the Special Rapporteur remains concerned at persistent and grave allegations about violations of the right to life against "street children" and in the context of land conflicts. The Special Rapporteur urges the Government of Brazil to undertake every effort to grant special protection to "street children". The Special Rapporteur would also like to express deep concern at the killings of Edmeia da Silva Eusebio and Sheila da Conceiçao, two of the mothers of a group of children who had disappeared from Magé in June 1990, despite earlier urgent appeals by the Special Rapporteur to the Government of Brazil in which he requested that they be protected from possible attempts at their lives.

Burundi

166. In early 1993, the Special Rapporteur received encouraging reports indicating that positive steps towards democracy had been taken in Burundi: In March 1992, after 26 years of one-party rule under the Party of Unity and National Progress (UPRONA) dominated by the Tutsi ethnic group, the country became a multi-party State. The first presidential elections took place on 1 June 1993 and were reportedly held peacefully. They were followed, on 29 June, by the first multiparty legislative elections since 1965. President Buyoya, who had initiated the reforms, and his party were overwhelmingly defeated, and President Ndadaye, a member of the Hutu ethnic group, and his party, the Front for Democracy in Burundi (FRODEBU), came to power.

167. On 21 October 1993, the armed forces, 90 per cent of whose members are reportedly Tutsi attempted a violent coup d'état during which President Ndadaye and senior government officials (both Hutu and Tutsi) were extrajudicially executed. Following the attempted coup, peaceful

demonstrations were violently repressed by the army which resulted in an undetermined number of civilian casualties. As on numerous occasions in the past, ethnic massacres erupted among the civilian population, especially in the rural areas: Tutsi were killed by Hutu in acts of revenge and Tutsi, especially members of the armed forces, killed Hutu. This violence is believed to have resulted in tens of thousands of deaths and in as many as 700,000 refugees in neighbouring countries.

Communications sent

168. Following the attempted coup, the Special Rapporteur sent an urgent appeal jointly to the Government of Burundi and to the Chief of Staff of the Armed Forces expressing concern for the life and physical integrity of President Ndadaye and other senior government officials (22 October 1993).

Communications received

169. At the time of the preparation of the present report, no communications had been received from the Government of Burundi. However, it should be noted that at the time the Special Rapporteur sent the above-mentioned urgent appeal, the remaining members of the Government had sought refuge in a hotel under the protection of French gendarmes.

Observations

170. The Special Rapporteur was appalled by the recent violent attempted coup in Burundi, which constituted a setback in what appeared to be promising reforms in a country marked by numerous ethnic conflicts and massacres over many years. The information received by the Special Rapporteur was incomplete, due both to the breakdown of communications during the attempted coup as well as to the remoteness of the regions where the worst massacres were reported to have taken place. At the time of the preparation of the present report, precise casualty figures were not known. However, the reports received indicate an alarmingly high death toll.

171. The Special Rapporteur is concerned that the acts of violence described above may affect the already fragile peace achieved in neighbouring Rwanda, where similar ethnic tensions prevail (see E/CN.4/1994/7/Add.1). As the Special Rapporteur pointed out in the conclusions of his analysis of violations of the right to life in Rwanda, lessons should be drawn from the past, and the vicious cycle of ethnic violence which has drenched both Burundi and Rwanda in blood must be broken. To this end, the impunity of the perpetrators of the massacres must be definitively brought to an end and preventive measures to avoid the recurrence of such tragedies must be designed.

172. It was reported that the Government of Burundi had requested that an international force help to stabilize the situation in the country and that an independent international investigation into the killings be carried out. The Special Rapporteur hopes that international intervention in Burundi will not limit itself to sending troops, but that the protection of human rights will be taken into account in its preparation.

173. The Special Rapporteur may request an invitation from the Government of Burundi to carry out a mission to that country. Considering the nature of the problems facing Burundi, such a visit could be undertaken jointly with the Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng. Furthermore, it could be combined with a possible follow-up mission to Rwanda.

Cambodia

174. According to reports received by the Special Rapporteur, grave human rights violations continue to occur in Cambodia in the context of widespread violence and a judicial system which was allegedly incapable of serious enforcement of any existing legal code.

175. The Special Rapporteur received a number of reports concerning members of a newly created legal opposition party, the Buddhist Liberal Democratic Party (BLDP), who were said to have been victims of attacks by members of the Popular Armed Forces, the security forces of the State of Cambodia, in 1992. Information was also received concerning the killing of numerous ethnic Vietnamese civilians by the Partie of Democratic Kampuchea (PDK or Khmer Rouge), which reportedly refused to disarm its troops and violated the cease-fire on a regular basis. It was further reported that, in the context of continuing fighting between the PDK and government forces, the killing of ethnic Vietnamese had become a tool for maintaining a state of terror and endemic violence in many parts of the country.

Communications sent

176. The Special Rapporteur transmitted to the Government of Cambodia 10 cases of alleged extrajudicial, summary or arbitrary executions which were said to have occurred in 1992: five persons were found dead a few days after their arrest by members of the armed forces; In Dar and Vun Thom Dar were killed during a bomb attack on the offices of the BLDP shortly after members of the party had received threats from members of the Popular Armed Forces; BLDP member Ath Sodhan and his mother Yea Naun were killed at home during an attack by members of a unit of the Popular Armed Forces; BLDP member Duong Ngieb was killed by armed men allegedly linked to the police.

Communications received

177. At the time of the preparation of the present report, no communications had been received from the Government of Cambodia.

Observations

178. The Special Rapporteur wishes to emphasize that the recent withdrawal of the United Nations Transitional Authority in Cambodia (UNTAC) does not mean that all problems regarding the respect of the right to life, especially the violent incidents provoked by the forces of the PDK, have been solved in Cambodia. In fact, allegations of violations continue to be transmitted to the Special Rapporteur and, according to the reports received, the weakness of the judiciary and the continuing impunity enjoyed by the perpetrators, as well

as the climate of violence and terror still prevailing in the country, create an atmosphere favourable to the persistence of human rights violations, including violations of the right to life.

179. The Special Rapporteur hopes that the cooperation he had started with UNTAC would continue with its successors. This should be facilitated by the fact that a human rights programme in Cambodia has been initiated by the Advisory Services and Technical Cooperation Branch of the Centre for Human Rights.

Cameroon

180. The Special Rapporteur received reports concerning violations of the right to life in 1992 by members of the Cameroonian security forces in the context of the state of emergency in North-West Province, of political unrest in many cities, and of intercommunal disturbances. Such reports included killings of civilians by gendarmes who were said to have opened fire indiscriminately on groups of people, in particular against participants in peaceful demonstrations. The Special Rapporteur was also informed about one case of death as a result of torture in security police custody.

Communications sent

181. The Special Rapporteur sent one urgent appeal to the Government of Cameroon in response to reports concerning four Chadian exiles who were believed to be about to be forcibly returned to Chad, where their life and physical integrity were feared to be at serious risk: Abbas Kotti, former Minister of the Government of Chad, Bichara Digui, Bichara Idriss Hagar and Mahamat Souleymane (31 December 1992).

182. The Special Rapporteur transmitted to the Government of Cameroon nine specific cases which were all reported to have taken place in 1992. They concerned: Hilary Bantar Njeta, who was said to have been killed by gendarmes in retaliation for assaults by a crowd against their houses; Anthony Tangiri, Joseph Yongla and Glory Ngeh, allegedly due to excessive use of force; two non-identified persons during a demonstration; Gandhi Che Nowa, reportedly as a consequence of torture in security police detention; Fidolis Fonga Ayaba, allegedly shot at close range by a policeman; and Gidéon Manko Ngum, lynched by a crowd reportedly benefiting from the complicity of members of the security forces.

Communications received

183. The Government of Cameroon replied to two urgent actions sent by the Special Rapporteur in November 1992 (E/CN.4/1993/46, paras. 160 and 161), informing him that Victorin Hamari Bieuleu and Nyo Wakai had been released and that their life and physical integrity had not been threatened; Alhadji Umaru Sakini had also been released and Joseph Ekosene had never been arrested (26 April 1993).

Observations

184. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Cameroon in providing replies to two of the urgent appeals

sent in 1992. However, it must be noted that no information was received with regard to another urgent appeal sent by the Special Rapporteur in 1992 in response to particularly grave allegations concerning the treatment of sick inmates of Tcholliré II prison. In this context, it should be recalled that as many as 70 persons held at that prison were reported to have died as a result of malnutrition and medical neglect (E/CN.4/1993/46, paras. 157 and 158).

185. According to information recently received from the source of the allegations, Abbas Kotti was extrajudicially executed by members of the Republican Guard in the Chadian capital N'Djamena on 22 October 1993.

186. The Special Rapporteur calls upon the Government of Cameroon to comply with its obligation to investigate all allegations of violations of the right to life, bring to justice their perpetrators, and provide compensation to the families of the victims. The Special Rapporteur also urges the authorities to adopt all necessary measures to avoid excessive use of force against those peacefully exercising their right to freedom of opinion and expression, peaceful assembly and association.

Central African Republic

187. The Special Rapporteur sent an urgent appeal to the Government of the Central African Republic after receiving information about the killing of at least four persons, including one woman identified as Hermine Yakite, by security forces between April and June 1993. Three were said to have been killed when security forces opened fire against demonstrators. Fears had been expressed that similar abuses of force might occur in further demonstrations that were expected to take place in connection with elections scheduled for August 1993. The Special Rapporteur urged the authorities to adopt all necessary measures to prevent such acts (16 June 1993).

188. The Special Rapporteur also transmitted to the Government of the Central African Republic allegations concerning the killing by police of Dr. Jean Claude Konjugo during a demonstration in August 1992.

Communications received

189. At the time of the preparation of the present report, no communications had been received from the Government of the Central African Republic.

Chad

190. The Special Rapporteur received a number of reports concerning serious violations of the right to life in Chad. According to the information that has come before him, more than 800 persons have been extrajudicially executed since December 1990, when President Idriss Déby came to power. Numerous killings were said to have taken place during counter-insurgency operations and reprisal attacks against persons perceived by government security forces as members or supporters of rebel groups because of their ethnic origin or place of residence.

191. The Special Rapporteur was informed that President Déby started his leadership on a positive note, namely the institution of a commission of inquiry to investigate abuses committed during the eight years of office of President Hissein Habré, during which over 40,000 people are believed to have been killed or to have disappeared. However, according to the reports received, no steps have been taken to exercise effective control over the security forces, who reportedly continued to resort to excessive lethal force against unarmed civilians or captured insurgents. It was further reported that members of the security forces who commit violations of human rights enjoy virtual impunity, in part because the judiciary, allegedly due to lack of support from the authorities, is largely unable to bring those responsible to justice. Similarly, the Procuracy, itself reportedly under threat from the security forces, is said to have no possibility to arrest people who are protected by the military.

192. The Special Rapporteur received alarming reports about massive killings of civilians by security forces in the regions of Moyen-Chari and Logone Oriental during the first half of 1993. A number of these killings were said to have been committed in retaliation for earlier attacks on security forces by armed opposition groups. In August 1993, more than 30 civilians were reported to have been killed when security forces allegedly used automatic weapons and rockets to disperse demonstrators in the capital N'Djamena.

193. A National Conference was held from mid-January to early April 1993 to debate Chad's political future and introduce reforms and measures to ensure respect for human rights. Some steps in this direction, such as the abolition of the security police force set up in 1991 or an inquiry, in April 1993, into human rights violations in southern Chad, are already said to have been taken. However, it is still unclear to what extent the recommendations formulated by the National Conference have actually been implemented.

Communications sent

194. The Special Rapporteur transmitted to the Government of Chad allegations he had received concerning violations of the right to life of at least 250 persons; 132 of them were allegedly extrajudicially executed while exercising their right to freedom of opinion and expression, peaceful assembly and association.

195. The Special Rapporteur sent four urgent appeals to the Government of Chad in which he urged the authorities to adopt all necessary steps to avoid the recurrence of violations of the right to life, after he received information concerning: the killing by the Republican Guard, a unit of the Chadian National Army, of 45 inhabitants of Goré town and surrounding villages, including Djimta Balo, Mathieu Ndotoloum, Jacob Dibo, Gabriel Mbaïtoloum, Rachel Yohodutum and Alphonse Ndooyo, as well as young children and women, and the deployment in the region of Moyen-Chari of large numbers of heavily armed soldiers (12 February 1993); continued attacks on civilians by the Republican Guard in the Moyen-Chari region, which included the alleged extrajudicial execution of Jacques Diedje, Maoundé Mbaléri, Issa Mbaléri, Maoudé Bawa and Yaïnlé Gourde as well as the abduction of four women (23 March 1993); the extrajudicial execution in April 1993 of at least 100 unarmed civilians by the Republican Guard in Logone

Oriental province (27 April 1993); the killing of more than 30 civilians and the injuring of over 150 others during clashes on 8 August 1993 between demonstrators and security forces in N'Djamena (19 August 1993).

196. The Special Rapporteur also transmitted to the Government of Chad the following four specific cases: Mianbe Mbailao, civil servant, reportedly killed by army officials whom he had accused during a radio programme of having stolen international aid funds; Albo Madjigoto, reportedly killed by two unidentified men driving a military vehicle; Mostapha Hisseine, killed in a car accident allegedly provoked by members of security forces; and at least 100 unarmed civilians, allegedly killed when members of the armed forces fired at them indiscriminately during a counter-insurgency operation in Doba.

Communications received

197. The Government of Chad provided the Special Rapporteur with the following information in reply to some of the cases transmitted to the authorities by the Special Rapporteur in 1992. There was nothing to prove that Joseph Behedi had been assassinated by the army nor that Ali Assali, Bedel Gabriel, Mahamat Dabou or Issa Etenna had been arrested solely because of their ethnic origin (see E/CN.4/1993/46, para. 167 (a) and (b)). An investigation had been opened concerning the incidents of October 1991 and concerning the cases of Goukouni Guet and Mahmat Saker (E/CN.4/1993/46, para. 167 (c)) (15 January 1993).

198. The Government of Chad also informed the Special Rapporteur that commissions of inquiry had been established to investigate violent incidents resulting in civilian casualties in October 1991 and June 1992. The Government denied formally the existence of paramilitary groups operating with the acquiescence of the Government and stated that acts of violence committed by individuals or paramilitary groups were the consequence of the proliferation of weapons in the country after a long period of war. The Government also informed the Special Rapporteur that it was the task of the Chadian judiciary to deal with allegations of death threats by the police and that persons under threat should therefore address themselves to the competent authorities (24 May 1993).

199. In reply to the Special Rapporteur's urgent appeal of 23 March 1993 the Government of Chad reported that a Commission of Inquiry had conducted investigations to determine responsibility for the killings of civilians in the context of confrontations between the Chadian National Army and rebels of the Committee for the Revitalization of National Peace and Democracy (CSNPD) in region of Logone Oriental (not in Moyen-Chari). The Commission concluded that innocent persons had been killed as a result of the confrontations between the army and the rebels and that deliberate massacres and looting had been carried out by certain elements of the army. The officers responsible had been arrested and transferred to the capital to be brought to justice and all officials, civil servants and soldiers implicated had been dismissed. Those mentioned in the urgent appeal as having been killed by the security forces were actually killed by the rebels (2 June 1993).

200. Finally, the Government of Chad informed the Special Rapporteur in reply to his urgent appeal of 19 August 1993 that a gathering of mourners in

N'Djamena had turned into an unauthorized demonstration with the clear intention of disturbing public order. In order to prevent an escalation, police tried to disperse the crown with tear-gas. As it was not possible to control the demonstrators, and after three gendarmes and three policemen had been killed, the Chadian National Army was called upon. After firing warning shots, the army used firearms to disperse the demonstration. In addition, the Government informed the Special Rapporteur that, on 29 June 1993, the Council of Ministers had adopted a number of measures to restore public order and ensure security for the population (10 September 1993).

Follow-up

201. The Special Rapporteur sent a follow-up letter to the Government of Chad in which he referred to the first three of the above replies. The Special Rapporteur requested additional details concerning the commissions of inquiry instituted to investigate human rights violations and, in particular: their composition; the procedures applied; sanctions and sentences, judicial or other, imposed on the persons found responsible for such human rights violations; compensation granted to the families of the victims; and the measures taken to avoid further similar incidents. The Special Rapporteur also asked to be informed about the basis on which the Government imputed killings to the rebel forces, in particular about any inquiries as may have been carried out.

202. With regard to the cases mentioned above, the source of the allegations replied to the Special Rapporteur's request for comments and observations on the information provided by the Government of Chad. The source informed the Special Rapporteur that, according to the information at its disposal, no independent investigation had been conducted into any of the cases; that the commission of inquiry into the events of October 1991 had been announced but never actually began any inquiry; and that none of the recommendations made by the commission of inquiry into the massacres in Logone Oriental prefecture had been implemented. The Special Rapporteur will follow up on this information with the Government of Chad.

Observations

203. The Special Rapporteur wishes to express his appreciation for the willingness to cooperate shown by the Government of Chad in providing him with the replies summarized above. The Special Rapporteur welcomes the holding of the National Conference and the establishment of commissions of inquiry as steps towards a better protection of the right to life. However, he is concerned that recommendations by the National Conference appear not to have been followed. Persistent allegations of violations of the right to life and reports according to which no independent inquiries have been carried out are also most disturbing.

204. The Special Rapporteur calls upon the Government of Chad to take urgent measures to put an end to impunity and to enable the judiciary to effectively carry out its role in the many reported cases of violations of the right to life, especially those perpetrated by the security forces. The Special Rapporteur also urges the authorities to adopt preventive measures to avoid the recurrence of violent incidents.

Chile

Communications sent

205. The Special Rapporteur urged the authorities to adopt all necessary measures to prevent the excessive use of force by security forces, particularly in the context of demonstrations, after José Octavio Araya Ortiz and Sergio Leopoldo Calderón Beltrami were said to have been killed by carabineros during a manifestation. The Special Rapporteur also appealed to the authorities to ensure effective protection of eye-witnesses who had allegedly received death threats (29 September 1993).

206. The Special Rapporteur transmitted to the Government of Chile allegations concerning the killing of the following three persons during an attempted escape from a prison in Santiago, allegedly due to excessive use of force of the prison guards: Pedro Ortiz Montenegro, Mauricio Gómez Lira and José Miguel Martínez.

Communications received

207. The Government of Chile provided the Special Rapporteur with a reply concerning the killing of Pedro Ortiz Montenegro et al. and informed him that the three were part of a group of eight who tried to escape from the prison, using firearms against prison personnel. They also shot at unarmed personnel controlling the entrance to the prison and at guards placed in front of the building. The security forces tried to prevent the escape and to defend themselves. As a result, three prisoners managed to escape; two, among them Pedro Ortiz Montenegro, were recaptured, seriously injured and three died. Two gendarmes and one carabinero were injured. Judicial investigations were opened to determine whether the security personnel resorted to excessive use of force. At the time of the reply (16 June 1993), they had not yet been concluded.

Observations

208. The Special Rapporteur wishes to express his appreciation for the information provided by the Government in reply to his communication of 27 April 1993 and hopes that the dialogue initiated with the Chilean authorities will continue.

China

209. The Special Rapporteur continued to receive very detailed information about the practice of the death penalty in China. Particular concern has been expressed at the large number and broad range of crimes subject to capital punishment. The Special Rapporteur was informed that, according to Chinese legal experts, some 65 criminal offences - a third of all criminal offences under Chinese law - were currently punishable by death. Far from being restricted to "most serious crimes" with lethal or other extremely grave consequences, they were said to include crimes such as "speculation", "corruption" or "bribery".

210. Moreover, it was reported that death sentences were imposed almost mechanically in cases involving theft of goods or "economic loss" to the State, when the amount of the theft or loss exceeded 30,000 yuan. This was also said to be the case where the value of goods allegedly stolen by a defendant over a long period of time reached 30,000 yuan. Due to the rapid growth of the Chinese economy in recent years, this threshold was reportedly reached more easily than in the past, often even by first-time offenders, thus increasing the number of death sentences imposed.

211. The Special Rapporteur was further informed that the number of offences subject to capital punishment had increased since the Chinese Penal Code came come into force in 1979. In addition, article 79 of the Chinese Penal Code provides that "a crime not specifically prescribed under the specific provisions of the present law may be confirmed a crime and sentence rendered in light of the most analogous article under the special provisions of the present law". Grave concern has been expressed at this provision, which permits the imposition of capital punishment by analogy.

212. Article 44 of the Chinese Penal Code provides that "a person between sixteen and eighteen years of age who commits a particularly serious crime may be sentenced to death with a two year reprieve". Several observers have pointed out that this provision is in contravention of a number of international instruments which prohibit the imposition of capital punishment for any crime committed by juveniles.

213. The Special Rapporteur has also received a number of allegations of shortcomings in procedures during trials leading to the imposition of the death penalty under Chinese law. According to these reports, under legislation adopted on 2 September 1992, defendants may be brought to trial without notification of the trial and of their right to appoint a lawyer, and without being given in advance a copy of the bill of prosecution in cases involving murder, rape, robbery, causing explosions or other acts which "seriously endanger public security". In such cases, the defendants are said to be tried either without a lawyer or with a court-appointed lawyer who has had no time at all to prepare the defence. In other cases, trials allegedly take place very shortly after the defendant has received the bill of prosecution, leaving insufficient time to prepare the defence. If the defendants have legal counsel, the rights of the lawyers to meet with the defendants are said to be restricted. In addition, it has been alleged that lawyers have access only to parts of the file concerning the case; they cannot confront witnesses and have no possibility of challenging the validity of the charges brought against the defendant.

214. Furthermore, it was reported that there is no presumption of innocence in Chinese legal practice, as decisions on guilt and sentence are allegedly made outside court hearings by committees subject to political influence. As a result of the powers vested in the "preparatory courts" (yupei ting) and the "adjudication committees" (shepan weiyuanhui), the formal trial procedures are said to have little bearing on the outcome of cases.

215. Although Chinese law provides for the possibility of appealing to a higher court, in practice this right to appeal is said not to be fully guaranteed. Reportedly, no hearing is held on appeal. Once the death

sentence is confirmed, there is no further avenue of appeal. Petitions for pardon or commutation of the death sentence by the President of the Republic or the Standing Committee of the National People's Congress do not suspend the execution of the sentence.

Communications sent

216. The Special Rapporteur communicated to the Government of China allegations according to which 19 persons were sentenced to death and executed in application of the legislation and practice described above. Eighteen of them had reportedly been found guilty of theft. One, Luo Deming, was said to have been executed for selling alcohol under a fake brand name, which was said to have been qualified by the Supreme People's Court as having "severely disrupted the socialist economic order, so that the circumstances of the offence were particularly serious".

Follow-up

217. The Special Rapporteur communicated to the Chinese Government the concerns regarding the application of capital punishment. In doing so, he pointed out that similar reports had been received, and transmitted to the Government, in recent years. The Special Rapporteur continues to find himself in a position where it seems impossible to him to arrive at any conclusion as to the merit of these allegations, since they continue to differ substantially from the information that had been provided by the Chinese authorities in 1992 (see E/CN.4/1993/46, paras. 183-184). The Special Rapporteur therefore reiterated his interest in carrying out a visit to China in order to gather first-hand information and thus be in a better position to evaluate the situation.

218. At the time of the preparation of the present report, no reply had been received from the Government of China.

Observations

219. The Special Rapporteur is deeply concerned at the continued grave allegations of lack of respect for the safeguards and guarantees protecting those who may face capital punishment in China. Additional details about legislation and practice with regard to the death penalty which were provided to the Special Rapporteur during 1993 by credible sources have only increased his concern at the serious deficiencies of the Chinese legal system. It is particularly disturbing in this regard that the desire to cooperate with the Special Rapporteur, expressed by the Chinese Government in 1992, when information was forwarded in reply to the Special Rapporteur's communications, has not continued: no reply has been received concerning the cases and general allegations transmitted in 1993, nor have the authorities reacted to the Special Rapporteur's repeated expressions of interest in carrying out an on-site visit to China in order to be able to study and evaluate the situation. Nevertheless, the Special Rapporteur would like to reiterate his readiness to collaborate in any possible way with the Chinese authorities and hopes that he may be able to contribute to an improvement of the protection of the right to life in China.

Colombia

220. The Special Rapporteur received numerous reports and allegations indicating that human rights abuses, and, in particular, violations of the right to life continue to occur at an alarming scale in Colombia. According to data published by Justicia y Paz, during the first nine months of 1993, more than 9,100 people died victims of political violence in the country.

221. A large number of violations of the right to life were said to be committed in regions where security forces maintain a strong presence due to Government counter-insurgency operations. The departments of Antioquia, Arauca, Cauca, Meta and Santander have been pointed out to the Special Rapporteur as being particularly affected. Members of the armed forces, the police and paramilitary groups cooperating with them were reported to be responsible for extrajudicial, summary or arbitrary executions.

222. Very often, the victims of such killings were said to be civilians who were perceived by the security forces as potential guerrilla collaborators. Members of indigenous communities in these areas, such as the Arsario, Arhuaco or Kogui indian peoples, were described as particularly vulnerable. As in former years, the Special Rapporteur also received a large number of allegations concerning extrajudicial executions of, or death threats against, representatives of political opposition parties, members of human rights associations, journalists, lawyers and persons linked with the church.

223. With regard to allegations of violations of the right to life committed by paramilitary forces, the Special Rapporteur received an alarmingly high number of reports concerning the region of San Vicente de Chucurí, Santander. There, paramilitary structures were allegedly activated, supported and protected by State security forces, whose members were frequently said to be directly implicated in extrajudicial, summary or arbitrary executions.

224. The Special Rapporteur was informed that, according to an official document about human rights violations in 1992, published by the Attorney General of Colombia (Procuraduría General de La Nación), 58 per cent of the complaints presented to his office in 1992 were directed against members of the National Police, and particularly its intelligence units.

225. The Special Rapporteur also continued to receive allegations about violations of the right to life in the context of so-called "social clean-up operations" ("operaciones de limpieza social") in a number of Colombian cities. During the course of the year, an increasing number of such reports were received. "Death squads" composed of armed individuals, in a number of cases also of members of the National Police, were reported to be responsible for the killing of the "socially undesirable": "street children", juveniles from street gangs, vagrants and suspected delinquents.

226. Furthermore, the Special Rapporteur received numerous reports indicating that in only a few cases of alleged human rights violations had investigations been initiated. Even where this occurred, it was reported that only in very exceptional cases had such inquiries resulted in the punishment of the authors of human rights abuses and in the compensation of the families affected.

Members of the armed forces, the police and the paramilitary groups cooperating with them reportedly continued to enjoy virtual impunity.

Communications sent

227. The Special Rapporteur communicated to the Government of Colombia allegations he had received concerning the violation of the right to life of more than 300 persons, including 15 minors and 7 women; 28 cases allegedly constituted violations of the right to freedom of opinion and expression, religion or peaceful assembly and association. By sending 28 urgent appeals, the Special Rapporteur intervened on behalf of more than 260 persons. Allegations concerning the right to life of a further 40 people were transmitted in a separate letter.

228. The Special Rapporteur sent 26 urgent appeals to the Government of Colombia in which he expressed concern for the safety of the following persons whose lives were said to be in danger:

(a) "Street children" in Bogotá, after posters were found in the capital announcing the extermination of "street children", inviting them to attend their own funerals (19 August 1993); Harizon Ortiz and nine other "street children" in Cali (15 October 1993);

(b) Lawyers Carlos Edgar Torres Aparicio, Rodolfo Alvarez, Oscar Elías López and anthropologist Etnio Vidardo as well as witnesses of the killing of more than 20 indigenous Páez (17 December 1992); priest and human rights activist Rafaél Duarte Ortiz (4 February 1993); Betty Gómez de Mondragón, widow of Hugo Varela Mondragón (see E/CN.4/1993/46, para. 209 (b)) (26 February 1993); 10 persons accused of being guerrillas, among them local authorities and members of the opposition party "Unión Patriótica": Alvaro Córdoba and nine others (names available with the Secretariat) (26 February 1993); community leader Pedro José Chaparro Cuesta, Luis Sosa and Mr. Fierro, after the assassination of Epimenio Rodríguez Guzmán and Marcos Ortiz González (17) (2 April 1993); community leaders Héctor Torres, Noél Segura Díaz, Alba Segura Díaz and Isidro Torres (12 March 1993); trade unionists Luis Fernando Alzate Alvarez, Oscar Toro, Jorge Barón, Gustavo Peña and Carlos García (2 April 1993); lawyer Dr. Eduardo Umaña Mendoza (30 April 1993); municipal counsellor Alfonso Palacio (16 June 1993); the wife of Gregorio Nieves, who was an eyewitness to his killing (17 June 1993); Gilberto Martínez and five passengers in his car, who had witnessed the extrajudicial execution of brothers Hermes and Linder Osvaldo Jiménez Barco (13 July 1993); members of the Regional Committee for the Defence of Human Rights (CREDHOS) (25 July 1993); community leader Pablo Eli Acosta (29 July 1993); 150 persons on a list, accused of being guerrilla collaborators or sympathizers, to be published by a television station (11 August 1993 and 22 November 1993); detainee and member of an armed opposition group Orlando Quintero Pérez (26 August 1993); lawyer Dr. Rafaél Barrios Mendivil (3 September 1993); community workers Manuel Claro, Erminoso Sepúlveda, Luis Reyes and two brothers of Víctor Guaudia, who had been killed (7 October 1993); community members after the killing of John Harol Ortega (29 October 1993).

229. The Special Rapporteur also urged the authorities to investigate the following cases of grave violations of the right to life and to take all necessary measures to prevent such incidents in the future:

(a) The killing, in a "social clean-up operation", of Jesús María Valencia Zuleta and 14 others (names available with the Secretariat). In this context, fear had been expressed for the life of Román Dario Roldan (7 October 1993);

(b) Excessive use of force in counter-insurgency operations resulting in the killing of Víctor Zambrano, Reyes Fuentes, José Fuentes and another peasant (26 July 1993); peasants Moisés Galván Pantoja, Sol Galván Pantoja and their cousin called Chavela (2 April 1993); Pedro Carvajal. In this context, fear had been expressed after death threats against Jorge Torres and Norberto Quintero (22 October 1993);

(c) Events in San Vicente de Chucurí: Leonardo Rangel and Isnardo García Carreño, who were abducted and killed; fear had been expressed for the lives of peasants José del Carmen Peña, Leonardo Pineda, Rosendo Fonseca, Roque Sandoval and Alvaro Quiroga (28 January and 23 February 1993); death threats against mayor Saúl Pico Gómez and Humberto Geovo Almanza (23 February 1993).

230. In three letters to the Government of Colombia, the Special Rapporteur transmitted the following 41 cases of alleged extrajudicial, summary or arbitrary executions:

(a) Pedro Jaramillo Rueda, Humberto Jaramillo Rueda, Mario Lozada Ortiz, Pedro Guevara, Fredy Prada Vargas, José Eugenio Morales and one other peasant, reportedly after torture; Faride Herrera Jaime and Oscar Iván Andrade Salcedo; Elio Valdonado, Herminia Barbosa and Octavio Bovilla; Pastor Ballesteros Tarazona and José Terry Pérez Castellanos; indigenous leader Gerardo Moreno Florez;

(b) Alvaro Diego Escribano, member of "Unión Patriótica"; José Rodrigo García Orozco, leading member of "Unión Patriótica"; trade union leader Eimar Tejada Trujillo; trade union leader Luis Carlos Pérez; trade unionist Hernando Valencia Laso;

(c) In the context of counter-insurgency operations: Wilson Quintero, Gustavo Coronel and Luis Alfonso Ascanio; Ramiro Ramos Ramos and Víctor Garces; Luis Ernesto Ascanio and Ramón Villegas;

(d) In San Vicente de Chucurí, between September 1992 and May 1993: John Raúl Rodas; Ricardo Uribe; José del Carmen Díaz; Euclides Peñaloza Galvis; Luis Angel Patiño Patiño; Luis Carlos Lopera Londoño; Octavio Sierra; Carlos Alberto Marquez Solano; Rodolfo Carreño Chaparro; Rubén Ardila Pinzón; Jaime Pineda Corzo; Horacio Rueda Castellanos; Eduardo Arciniegas; Antonio María Forero Navas.

Communications received

231. The Government of Colombia provided the Special Rapporteur with replies to the following cases:

(a) Betty Gómez de Mondragón: the competent authorities contacted her to assess the situation and grant protection to herself and to her family (5 April 1993);

(b) Rafaél Duarte Ortiz: the competent authorities were instructed by the Consejería Presidencial para la Defensa, Protección y Promoción de los Derechos Humanos to provide the necessary means of protection (5 April 1993); as a result of a complaint filed by Rafaél Duarte Ortiz, a disciplinary investigation was carried out which resulted in the imposition of three and eight days of detention, respectively, upon two police agents (27 July 1993);

(c) Dr. Eduardo Umaña Mendoza: after he had, on his own decision, declined the escort assigned to him by the Departamento Administrativo de Seguridad, the Consejería Presidencial requested the Attorney General's office to give particular attention to his case (3 June 1993);

(d) Gregorio Nieves: judicial investigations had been opened into his killing. The Consejería Presidencial approached the Defence Ministry and the Army Command with a view to protecting his wife (16 August 1993);

(e) Orlando Quintero Paez: the Consejería Presidencial requested the competent authorities to ensure due protection for the prisoner (18 October 1993);

(f) Víctor Guaudia et al.: investigations have been initiated by the competent office of the Attorney General. The municipal officials said to be under threat met with the police to evaluate their security situation. Measures were adopted to grant them protection and investigate the origin of the death threats against them (11 November 1993).

232. In addition, the Government of Colombia informed the Special Rapporteur that in the aftermath of the criminal attack in Bogotá on 15 April 1993 which caused the death of 10 persons, the authorities were obliged to declare the state of internal commotion, in conformity with article 215 of the Constitution and Legislative Decree 261 of 5 February 1993 (23 April 1993).

233. Furthermore, the Government of Colombia transmitted to the Special Rapporteur a report on the conditions of human rights in Colombia, issued by the authorities. This report referred, inter alia, to the new Constitution of 1991, and, in particular to provisions it contains for the protection of human rights through the "writ of protection" (see below para. 235), legislation on police reform passed in 1993 and on states of emergency (19 November 1993).

Follow-up

234. On 22 September 1992, the Special Rapporteur sent a letter to the Government of Colombia in which he requested to be provided with additional

information regarding a number of cases transmitted both in 1992 and 1993, for which replies had been received. Where the Government had informed him that investigations had been opened, the Special Rapporteur inquired about the current status of the investigations and their results, if already concluded. Where the Government had stated that protection had been granted to persons under threat, the Special Rapporteur asked to be informed about the specific measures adopted.

235. During his stay in Geneva in November 1993, the Special Rapporteur met with representatives of the Government of Colombia who provided him with additional information about measures taken by the authorities to improve respect for the right to life in Colombia. In particular, reference was made to a reform of the police and the "writ of protection", an instrument provided for in the Colombian Constitution of 1991 to ensure respect for fundamental rights and freedoms. As concerns the right to life, the Special Rapporteur was informed that this writ of protection can be used in cases of death threats by members of the armed forces, thus giving the civilian courts some control over acts of military personnel, even when they are on active duty.

236. Furthermore, the Government invited the Special Rapporteur to carry out a visit to Colombia. In view of the fact that four electoral consultations will be held in Colombia in 1994, it is envisaged that this visit will take place after September 1994. In preparation for the visit, the Special Rapporteur plans to intensify his dialogue with the Government of Colombia with regard to the recommendations made by his predecessor, Mr. S. Amos Wako, after his visit to the country in 1989, and, in particular, with a view to identifying the obstacles faced by the authorities in their efforts to implement these recommendations.

Observations

237. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of Colombia. He has taken note with appreciation of the measures taken by the Government with a view to better protection of the right to life. The Special Rapporteur would also like to thank the Government of Colombia for inviting him to carry out an on-site visit.

238. However, the Special Rapporteur remains concerned: as described above, he continues to receive a large number of allegations concerning violations of the right to life. It is particularly disturbing to note that similar allegations have now come before the Special Rapporteur for many years. In this context, the Special Rapporteur welcomes the new legislation on police reform and the increased possibilities for the protection of human rights under the 1991 Constitution. He encourages the Government of Colombia to continue its efforts in this regard and urges them to adopt effective measures to prevent further loss of life, particularly in the context of counter-insurgency activities or "death squad" operations against those regarded as socially undesirable. The Special Rapporteur also appeals to the authorities to investigate human rights abuses and bring their perpetrators to justice.

Comoros

Communications sent

239. The Special Rapporteur transmitted to the Government of the Comoros allegations he had received concerning violations of the right to life of 10 persons.

240. The Special Rapporteur sent an urgent appeal to the Government of the Comoros after receiving information according to which M'Tara Maecha, Omar Tamou, Abdallah Ahmed Cheik, Abderrahmane Ahmed Adallah, Combo Ayouba and four others were sentenced to death for having participated in an attempt to overthrow the Government in September 1992. It was alleged that they did not fully benefit from fair trial guarantees, in particular with regard to the independence and impartiality of the judges, who had been designated by the Government. The defence lawyers were said to have had only limited access both to their clients and to the files of the case. Furthermore, the defendants allegedly did not have the right to appeal (30 April 1993).

241. The Special Rapporteur also transmitted to the Government of the Comoros the case of Djida Ahmed, who was said to have been extrajudicially executed by members of the armed forces of the Comoros. No investigation was said to have been carried out.

Communications received

242. At the time of the preparation of the present report, no communications have been received from the Government of the Comoros.

Cuba

Communications sent

243. The Special Rapporteur communicated to the Government of Cuba allegations of the extrajudicial, summary or arbitrary execution of the following seven persons, including one minor: Orelvis Martínez Limonta; Francisco Díaz Mesa, reportedly due to lack of medical attention while in prison; Felipe Timoneda, reportedly as a consequence of torture at a police station; Alain Hermida Oviedo, reportedly as a consequence of a beating administered in prison; Felipe Achin, allegedly while in police custody; Rodolfo Gómez Ramos, reportedly due to lack of medical attention while in prison; and Lázaro Gutiérrez Franco, reportedly due to beating by police officers.

Communications received

244. At the time of the preparation of the present report, no communications had been received from the Government of Cuba.

Djibouti

245. The Special Rapporteur has received information according to which large-scale violations of the right to life have taken place in Djibouti in the context of renewed armed confrontations between government forces and

forces of the Front pour la restauration de l'unité et de la démocracie (FRUD) (Front for the Restoration of Unity and Democracy) since July 1993. Hostilities were said to have intensified in August 1993. According to the reports received, soldiers of the National Army of Djibouti have carried out numerous extrajudicial executions of civilians whom they suspected of being members or sympathizers of the FRUD, particularly in the northern region of Tadjourah. Most of the victims were said to have been of the Afar ethnic group, which reportedly constitutes the majority of FRUD supporters. The Special Rapporteur was further informed that the government forces were carrying out these killings in total impunity.

Communications sent

246. The Special Rapporteur sent an urgent appeal to the Government of Djibouti after being informed about the above-mentioned acts of violence and, in particular, the killings of Kamil Houmed Souleh and Abakari Gadito in the city of Randa, and of the nomadic shepherds Mohamed Dimbiyo Ahmed, Ahmed Abdallah Mohamed, Mohamed Ali Ahmed and Abdo Mohamed in the Tadjourah region, allegedly by soldiers using machine guns (24 September 1993).

Communications received

247. At the time of the preparation of the present report, no communications had been received from the Government of Djibouti.

Observations

248. The Special Rapporteur would like to express concern at the reports of violations of the right to life in the context of ethnic violence described above. The apparent lack of efforts on the part of the authorities to curb ethnic tension and prevent its possible further escalation, particularly in view of the alarming example of neighbouring Somalia, is particularly disturbing. The Special Rapporteur regrets that the Government of Djibouti has not indicated any sign of cooperation with his mandate.

Ecuador

Communications sent

249. The Special Rapporteur transmitted to the Government of Ecuador two urgent appeals concerning alleged death threats by members of the police against José Ignacio Chauvin (17) (12 February and 10 March 1993). He also sent an urgent appeal after receiving information about death threats against Cecilia Guijarro by members of the military after she had publicly accused them of being responsible for the disappearance of her son (3 November 1993).

250. The Special Rapporteur also transmitted to the Government of Ecuador allegations he had received concerning the death in custody, reportedly as a consequence of torture, of Felipe Moreira Chávez.

Communications received

251. The Government of Ecuador provided the Special Rapporteur with information concerning the cases of José Ignacion Chauvin and Felipe Moreira Chávez and informed him that the competent authorities had initiated investigations (5 April and 26 May 1993).

Follow-up

252. The Special Rapporteur sent a follow-up letter to the Government of Ecuador in which he asked for updated information as to the progress of these investigations (22 September 1993).

253. In response to this letter, the Government of Ecuador provided the Special Rapporteur with the text of the initial report by the General Inspectorate of the National Police on its investigations into the case of José Ignacio Chauvin (30 September 1993).

Observations

254. The Special Rapporteur would like to express his appreciation for the will to cooperate showed by the Government of Ecuador in its prompt reply to the allegations transmitted, as well as to his request for additional information, and hopes to continue this dialogue in the interest of the protection of the right to life.

Egypt

255. The Special Rapporteur received a number of communications expressing great concern at amendments to the Penal Code of Egypt introduced through Law No. 97 of 1992 which significantly increased the number of capital offences provided for under Egyptian law. These provisions were said to relate to what the law termed "terrorist" offences. According to the information received, these offences had not been defined, leaving ample room for discretion in determining whether an action was regarded as "terrorism" or not. Moreover, it was reported that in a number of cases defence lawyers had only limited access to their clients, and that the time allowed for the preparation of the defence was not adequate.

256. Furthermore, it was reported that those accused of "terrorism" were tried by military tribunals. Those convicted were said to have no right to appeal. Death sentences passed by these tribunals are subject to confirmation by the President of the Republic and then review by the Military Appeals' Bureau, which is also headed by the President of the Republic. All death sentences are then said to be referred once again to the President of the Republic for final approval or clemency. Concerns have been expressed as to the impartiality and independence of the Military Appeals' Bureau and to the lack of effectiveness of this review procedure.

257. Between December 1992 and the end of September 1993, military courts were said to have sentenced 28 civilians to death; 18 executions sentences were reportedly carried out.

258. The Special Rapporteur has also received information according to which confrontations between the police or security forces and Islamic militants have become increasingly violent in recent years. This was said to have brought about a significant number of deaths among the militants as well as members of the police. Several sources expressed concern that some of the deaths caused by the police were the result of excessive and unwarranted use of lethal force. Some killings were said to have been carried out deliberately although the victims did not pose any violent threat at the time they were shot. It was also alleged that the number of such incidents had risen sharply in 1992, and that this trend had continued during the first months of 1993.

259. In addition, the Special Rapporteur has received allegations concerning deaths in custody, allegedly as a result of torture.

Communications sent

260. The Special Rapporteur transmitted to the Government of Egypt allegations concerning violations of the right to life of 43 persons, 2 of them minors.

261. The Special Rapporteur sent eight urgent appeals to the Government of Egypt. Seven of them concerned the alleged imminent execution of death sentences passed by military tribunals which had convicted the following persons under the new terrorism legislation:

(a) Al-Sharif Hassan Ahmed, Mohammad Shawqi al-Islambuli, Mostafa Ahmed Hamza, Rufa'i Ahmed Taha, 'Othman Khalid Ibrahim, Ahmed Mostafa Nourara, Tal'at Mohammad Yassin and Tala't Fou'ad Qassim (22 February 1993);

(b) Hassan Shabata Badran, Bastawi 'Abd al-Hamid Abu al-Magd, Sa'id Amin Abu Al-Magd, Ashraf Sa'id Abd-Rabbu, Drawi Mohammad Ibrahim 'Abd al-Mutallib, Ahmed 'Abd al-Rahim Radwan, 'Abd al-Hadi al-Saghir Tayi' and 'Abd al-Hamid al-Zamqan 'Ali (16 June 1993);

(c) Hassan Ramadan 'Abdullah Shalqani, Ahmed Hussein Ahmed Al-Husseini, Tariq 'Abd al-Raziq Hassan, Ashraf Al-Sayyid Ibrahim Salih, Ibrahim Sayyid 'Abd al-'Aal and Mostafa Ahmed Hassan Hamza (22 June 1993);

(d) Ramdhan Mostafa Mohammad Hassan, 'Ali Fayed May'ub, Sayyid 'Abd al-Raziq and Hishan Mohammad Mas'ud (1 September 1993);

(e) Mahmoud Salah and Mostafa 'Awni Zaki (24 September 1993);

(f) Yahya Mustapha Imam Shahrour, Ahmed Mohammad Hammouda and Hasham Taha Ahmed Salim (25 October 1993);

(g) 'Abd al-Hamid Mohammad 'Abd al-Hamid, Fathi Imam 'Abd al-Maguid, Khuwaylid Mohammad Bakarat, Mohammad 'Abdullah Mohammad, Ra'fat Mahmoud Mohammad 'Othman, Mohammad Hosam Ahmed al-Sharif, Yasser Kamil 'Ali and Mohammad Zein (12 November 1993).

262. The Special Rapporteur also sent an urgent appeal after being informed about serious fear for the life of Mahammed Ali Mohammed Ali, whose health was said to be precarious after severe torture at a police station (13 July 1993).

263. The Special Rapporteur transmitted to the Government of Egypt allegations concerning the extrajudicial execution, by members of the police who allegedly resorted to excessive force, of seven students, two of them minors: Moustafa Elewa Mohamed, Moustafa Hassan Abd-El Rady, Mohamed Ahmed Mouktar, Khaled Hassan Mouzlem, Ahmed Hasem Abd-El Razek, Moustafa Ramzy Abd-Zied and Mohamed Mohamed El-Saghir.

Communications received

264. The Government of Egypt provided the Special Rapporteur with replies to his urgent appeal of 22 February 1993 (6 April 1993) and to his letter of 27 April 1993 (13 October 1993). Another reply was received with reference to the letters of the Special Rapporteur regarding the occurrence of extrajudicial, summary or arbitrary executions in Egypt (13 October 1993).

265. The Government of Egypt forwarded detailed information as to the offences which are punishable by death under Egyptian law as well as the conditions and safeguards for the application of the death penalty. The Government also informed the Special Rapporteur in detail about the system of military justice in Egypt. With regard to trials of civilians before military courts, the Government stated that military jurisdiction, is normally restricted to a very limited number of offences against military personnel, property or secrets or offences committed by civilians attached to the military. However, the President of the Republic is empowered to refer specific offences, after they have been committed, to the military courts depending on the circumstances and their degree of gravity in the light of their nature or the identity of their perpetrators. In such cases, trial procedures are governed by the Code of Military Justice, whereas the applicable definitions of crime and punishment are those set forth in the Penal Code.

266. Furthermore, the Government of Egypt pointed out that the right to defence, as well as the impartiality of the judges in such proceedings, were guaranteed, as was the right to appeal through review of the judgement, before its confirmation, by more experienced legal officers; the possibility of lodging an appeal against its confirmation on the grounds of illegality or erroneous application or interpretation of the law, or a procedural defect prejudicial to the rights of defence; and a mandatory submission of the judgement to the President of the Republic for pardon.

267. With regard to the case contained in the Special Rapporteur's urgent appeal of 22 February 1993, the Government of Egypt pointed out that only one person, Sharif Hassan Ahmad Muhammad Hassan, was present at the trial, the other seven being fugitives in a foreign country. Sharif Hassan was said to have benefited from all procedural guarantees. At the time of the reply (6 April 1993), the judgement was being considered by the Military Appeals' Bureau. In the case of the fugitives, who had been tried and sentenced in absentia, the time-limit for appeal was reported to begin only from the date of their surrender or capture.

Follow-up

268. The source of the allegations informed the Special Rapporteur about the execution of the death sentences in the cases of: Al-Sharif Hassan Ahmed; Hassan Shahata Badran and seven others; Hassan Ramadan 'Abdullah Shalqani and four others; Ramadhan Mostafa Mohammad Hassan and three others.

Observations

269. The Special Rapporteur wishes to express his appreciation of the detailed and prompt manner in which the Government of Egypt has provided him with replies to the concerns transmitted. The Special Rapporteur is fully aware of the difficulties encountered by Governments which face the problem of violence caused by an armed opposition. While understanding the need for special measures to curb such violence, the Special Rapporteur insists that the right to life is absolute and non-derogable, even under special circumstances.

270. The Special Rapporteur therefore remains concerned that, under the anti-terrorism legislation currently in force in Egypt, those accused of crimes for which the death penalty may be imposed do not benefit from all the safeguards and guarantees contained in the pertinent international instruments. In this regard, the Special Rapporteur notes that the Human Rights Committee, after examining Egyptian anti-terrorism legislation, expressed its opinion that the definition of terrorism contained in law No. 97 of 1992 should be "reviewed by the Egyptian authorities and stated much more precisely, especially in view of the fact that it enlarges the number of offences which are punishable with the death penalty. The Committee underscores that according to article 6, paragraph 2 of the International Covenant on Civil and Political Rights, only the most serious crimes may lead to the death penalty" (CCPR/C/79/Add.23, para. 48). The Human Rights Committee also expressed deep concern about military courts trying civilians and concluded that "military courts should not have the faculty to try cases which do not refer to offences committed by members of the armed forces in the course of their duties" (Ibid., para. 9).

271. The Special Rapporteur is particularly concerned at the restrictions of the independence of the judiciary which result from the implication of the President of the Republic at three levels: first, he decides which case is to be heard by the military courts; second, he presides over the Military Appeals' Bureau; and third, he is called upon to decide on appeals of pardon or commutation of a death sentence. It is to be feared that this renders the appeal procedure ineffective in practice. The Human Rights Committee has also noted with concern the President's role as both part of the executive and part of the judiciary system (Ibid). The Special Rapporteur calls upon the Egyptian authorities to provide for trial procedures which fully respect the safeguards and guarantees protecting those facing the death penalty, in conformity with the pertinent international instruments.

El Salvador

272. The Special Rapporteur received a number of reports concerning violations of the right to life in El Salvador.

273. In March 1993, the Truth Commission, established on 13 July 1992 as a result of the fourth round of negotiations between the Government and the Frente Farabundo Martí para la Liberación Nacional (FMNL) in April 1991, published its report in which it documented massive human rights violations committed by government security forces and groups linked to them as well as, on a lesser scale, killings and abductions carried out by the FMLN. As regards violations of the right to life, the armed forces, police and paramilitary groups were reported to have committed a large number of extrajudicial, summary or arbitrary executions. In many cases, such executions were said to have been preceded by torture and ill-treatment. "Death squads" linked with State structures were reportedly responsible for numerous extrajudicial killings and were said to have been used as an instrument of terror and systematic practice to physically eliminate political opponents. Some of these "death squads" were said to have been linked with certain political leaders, others with intelligence services within the armed forces.

274. The Truth Commission concluded its report with a number of recommendations including the removal from office of all military and judicial officials named in the report and the establishment of a fund to provide financial compensation for the victims of past human rights violations. The Commission also recommended a special, urgent investigation into "death squads", which it considered continued to pose a threat to society. The Truth Commission also expressed concern at deficiencies in the judicial system and recommended extensive reforms so that full and timely justice could be accomplished.

275. In April 1993, the National Counsel for the Defence of Human Rights, whose office had been established in 1992, also as a result of the peace accords, also published a report in which it stated that violations of the right to life continued and in some cases presented characteristics and elements which gave reasonable grounds to believe that there were political motives.

276. According to the information received by the Special Rapporteur, no steps have been taken to put into practice the recommendations made by the Truth Commission. On 20 March 1993, the Legislative Assembly of El Salvador adopted the General Amnesty Law for the Consolidation of Peace, which exempts from responsibility all those, including judicial officials, responsible for carrying out or covering up human rights abuses committed in the context of the civil war, and especially those mentioned by name in the Truth Commission's report. On 21 April 1993, the non-governmental Human Rights Commission of El Salvador (CDHES) reportedly lodged a complaint against this law on the grounds that it violated several articles of the Salvadorian Constitution as well as the State's obligation to respect the international instruments ratified by the Government.

277. In its most recent report, covering the period from May to July 1993, the United Nations Observer Mission in El Salvador (ONUSAL) stated that, while certain improvements could be observed in some fields of human rights, grave violations of the right to life had increased during the first half of 1993. The reappearance of "death squads", although described as isolated, was qualified as most disturbing. No investigations were said to have been opened

into most of the extrajudicial killings attributed to such groups. "Death squads" were also reported to be responsible in 40 cases of death threats registered by ONUSAL between May and July 1993.

278. These disturbing reports of renewed "death squad" activities were apparently in connection with the March 1994 elections. Members of the FMLN, including members of its National Council and candidates for the legislative assembly, were said to have been killed. Death threats were reported against FMLN members as well as representatives of the political opposition.

Communications sent

279. The Special Rapporteur transmitted to the Government of El Salvador allegations concerning violations of the right to life of 20 persons. In 4 cases, the victims were women; 15 cases concerned the alleged violation of the right to freedom of opinion and expression, peaceful assembly and association.

280. The Special Rapporteur transmitted two urgent appeals to the Government of El Salvador, after being informed of death threats, allegedly by members of the military, against lawyers Mirna de Anaya (8 January 1993) and Félix Ulloa (27 January 1993), both acting as defence counsel for César Vielman Joya Martínez (see E/CN.4/1993/46, para. 246). Further urgent appeals were sent after death threats had been reported against the Secretary-General of the Movimiento Popular Social Cristiano, Gregorio Mejía Espinoza (9 June 1993), and in response to threats allegedly from a "death squad" against the Dean of the Faculty of Law of the University of San Salvador, René Macadel Perla Jiménez (21 September 1993).

281. The Special Rapporteur also sent an urgent appeal to the Government of El Salvador after being informed of renewed "death squad" activities, believed to be at the root of the killings of the following FMLN members: Darol Francisco Veliz; Heleno Hernán Castro; Medardo Brizuela Hernández; Justa Victoria Orellana Cortéz; Manuel de Jesús Acevedo; and Humberto Antonio López; as well as death threats and acts of intimidation against Dr. Rubén Zamora, Vice-President of the Legislative Assembly and candidate for the presidency; opposition politicians Dr. Héctor Silva, Rebecca Palacios and Dr. Enrique Argumedo; journalist Antonio Velado; student leader and FMLN member Gabriél Quintanilla; and human rights activist Margarita Alemán (22 November 1993).

282. The Special Rapporteur also transmitted to the Government allegations he had received concerning the alleged extrajudicial execution by members of the military of Juan Carlos García Panameno and Manuel de Jesús Panameno, as well as the reported killing by police of Santos Martínez as a result of excessive use of force against participants in a demonstration.

Communications received

283. The Government of El Salvador provided the Special Rapporteur with information on the killings of Darol Francisco Veliz Castellanos and Heleno Castro, members of the FMLN. The Government reported that instructions had been given to open inquiries into these killings. At a

press conference on 25 October 1993, President Alfredo Cristiani announced that an inter-institutional commission would be created jointly with the Human Rights Division of ONUSAL to give due follow-up to all cases that appear to be acts of politically motivated violence, and to investigate the existence or formation of groups which might commit such acts of violence, so as to bring them before the courts (4 November 1993).

284. The Government of El Salvador also provided the Special Rapporteur with the text of a statement by the Presidential Commission on Human Rights on the assassination of Darol Francisco Veliz Castellanos, in which it expressed total repugnance of any type of violence assaulting Salvadorian citizens and human dignity (29 October 1993).

Observations

285. The Special Rapporteur would like to express concern at the allegations described above which he has received in 1993 concerning violations of the right to life in El Salvador. With particular regard to the amnesty law passed by the Legislative Assembly in March 1993, the Special Rapporteur would like to note that, while in exceptional cases and under certain circumstances it may be politically opportune to refrain from punishing the authors of certain crimes, amnesty laws must not result in the legalization of impunity. In particular, they must not preclude that investigations into human rights abuses are carried out with a view to establishing the facts and granting compensation to the victims and their families. If the result of amnesty legislation is to refrain from establishing what has happened and thus leave open the dark pages in the history of a country, such laws are very likely to miss their objective of contributing to national reconciliation, most commonly invoked as their justification. In this context, and with particular regard to the situation in El Salvador, the alarming reports of renewed "death squad" activities do not come as a surprise. The Special Rapporteur calls upon the authorities of El Salvador to undertake determined efforts to implement the recommendations made by the Truth Commission and work towards genuine and lasting peace and reconciliation. The Special Rapporteur hopes that the inter-institutional commission announced by President Cristiani to investigate politically motivated violence and the existence of "death squads" could be a step in this direction. However, the Special Rapporteur is concerned at recent reports according to which the President had not yet indicated when he would appoint the Government's representatives to the joint commission. The Special Rapporteur has also learned with alarm that the investigation into the assassination of Heleno Castro was reportedly closed by the authorities, only one month after his killing.

Equatorial Guinea

286. The Special Rapporteur received a number of reports and allegations concerning violations of the right to life by members of the security forces in Equatorial Guinea. Political activists and members of opposition parties were said to have been victims of extrajudicial executions, death threats and acts of intimidation and harassment. Many of them were said to have been forced into hiding.

287. The Special Rapporteur also received alarming reports about the situation on the island of Annobón, where, in the context of an incident described by the authorities as a "rebellion", several civilians were said to have been killed.

Communications sent

288. The Special Rapporteur communicated to the Government of Equatorial Guinea allegations concerning violations of the right to life of more than 22 persons. Three cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

289. The Special Rapporteur sent urgent appeals to the Government of Equatorial Guinea after being informed of fear for the lives of the following persons: Celestino Bacale, Arsenio Moro and the priests Luis María Ondo Mayé and Pedro Ncogo, allegedly after torture in detention (21 January 1993); José Oló Obono, lawyer and member of the opposition party "Convergence for Social Democracy", after death threats (13 September 1993); priest José Luis Engono, after death threats and acts of intimidation against his father Francisco Engono Micue (24 September 1993).

290. The Special Rapporteur also sent an urgent appeal after receiving information about violent events on the island of Annobón, in particular the killing of Manuel Villarubia, Simplicio Llorente and four unidentified persons by security forces as well as Pedro Motu, member of the opposition party "Unión Popular" (31 August 1993) and death threats against Bonifacio Yayeye, Eusebio Juego, Marcos Vidal and Santos Gómez (24 September 1993).

291. After having sent an urgent appeal to the Government of Equatorial Guinea on behalf of Orlando Cartagena and Francisco Medina (or Benevina), allegedly sentenced to death by a military tribunal after summary proceedings (15 September 1993), he was informed by the source of the allegation that the men had in fact been sentenced to 25 years' imprisonment.

292. The Special Rapporteur also transmitted to the Government of Equatorial Guinea allegations he had received concerning the death in police custody, reportedly as a consequence of torture, of Damaso Abaga Nve and of Miguel Nseng Bacale.

Communications received

293. At the time of the preparation of the present report, no communications had been received from the Government of Equatorial Guinea.

Observations

294. The Special Rapporteur, concerned at the reports he had received concerning violations of the right to life and, in particular, violent acts on the island of Annobón, urges the Government of Equatorial Guinea to take all necessary measures directed at full respect for the right to life. He calls upon the competent authorities to ensure that security forces act within the restrictions on the use of force and firearms as contained in the pertinent international instruments.

Ethiopia

Communications sent

295. The Special Rapporteur has communicated to the Government of Ethiopia allegations concerning the alleged extrajudicial execution of nine persons. Seven cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association. Those said to be killed, by soldiers of the Ethiopian People's Revolutionary Democratic Front (EPRDF) in January 1992, were Mohamed Sheikh Mohamoud Iraad and Abdirashid Sulub Anshur. Reportedly, no investigation into their deaths had been initiated. The Special Rapporteur also transmitted to the Government of Ethiopia allegations according to which members of the security forces had killed at least seven students who participated in a demonstration in January 1993. The security forces had allegedly opened fire without any warning on the participants in this demonstration, which had not been authorized. No judicial inquiry was said to have been opened.

Communications received

296. The Government of Ethiopia provided the Special Rapporteur with information about the establishment, on 8 August 1992, of the Office of the Special Prosecutor, which was mandated to create a historical record of the abuses of the regime of Colonel Mengistu and to bring those criminally responsible for human rights violations and/or corruption to justice (4 November 1993).

Follow-up

297. The Government of Ethiopia forwarded a reply to a request for information on cases which had been transmitted by the then Special Rapporteur in 1991, in which it pointed out that the alleged violations of the right to life had occurred during the previous military regime, and that the Transitional Government of Ethiopia should therefore not be asked to account for them. With regard to eight persons allegedly shot during a demonstration shortly after the EPRDF took control of the country, the Government pointed out that this demonstration had been staged by an unruly group and had quickly degenerated into violence. The security forces had to enforce law and order in order to keep the acts of violence from spreading.

Observations

298. The Special Rapporteur has received with appreciation the information forwarded to him by the Transitional Government of Ethiopia. It would appear that the establishment of a Special Prosecutor's Office to investigate human rights violations under the previous government and bring to justice those responsible constitutes a recognition of the need to clarify the facts. It is hoped that this will lead to the allocation of compensation to the victims of such abuses and their families, and that measures will be adopted to avoid the occurrence of similar violations in the future.

Guatemala

299. As in former years, the Special Rapporteur received alarming reports of human rights violations in Guatemala, including extrajudicial, summary or arbitrary executions.

300. According to data published by the non-governmental Human Rights Commission of Guatemala (CDHG), between July 1992 and July 1993, violations of the right to life included 282 extrajudicial executions, 189 execution attempts and 210 cases of death threats. In the first six months of 1993, 104 extrajudicial executions were registered, along with 82 attempted executions and 103 death threats. In 24 cases, extrajudicial executions were said to have been preceded by torture. Members of the armed forces, the civil self-defence patrols (PAC), agents of various police units and so-called "death squads" allegedly collaborating with them are indicated as being the authors of such violations of the right to life.

301. As in past years, children, women and the indigenous population were said to have been among those most vulnerable to human rights abuses. Minors and, in particular, "street children", as well as individuals and organizations such as Casa Alianza seeking to protect them and provide them with education and training, reportedly continued to be victims of killings and death threats. Between 1992 and 1993, CDHG reported 17 extrajudicial executions of minors, 54 attempts against their lives and 15 cases in which they were subjected to death threats. Women reportedly suffered from discrimination due to their gender, their socio-economic status and their ethnic origin. Indigenous people were also said to continue to be victims of acts of harassment, death threats and even extrajudicial killings, often for refusing to join the ostensibly voluntary civil defence patrols or for their activities in indigenous resistance groups.

302. The Special Rapporteur also continued to receive a large number of reports about violations of the right to life of human rights defenders and members of popular organizations, trade unionists, journalists, university students and teachers, as well as persons linked with the church engaged in activities in favour of marginalized sectors. The following organizations active in the defence of human rights have been indicated as targets of death threats and attacks: the National Coordinating Committee of Widows of Guatemala (CONAVIGUA), the Guatemalan Association of Jurists (AGJ), the National Council of the Displaced of Guatemala (CONDEG), the Association for the Advancement of Social Sciences in Guatemala (AVANCSO), the Committee for Peasant Unity (CUC), the Council of Ethnic Communities "We are all Equal" (CERJ), the Mutual Support Group for the Appearance of Our Relatives Alive (GAM) and the Families of Detainees and Disappeared Persons in Guatemala (FAMDEGUA). Several of these associations have been cooperating with procedures of the Commission on Human Rights for years.

303. The Special Rapporteur also received persistent reports of violations of the right to life in the context of the Government's counter-insurgency strategy. Indiscriminate military attacks, employing heavy weaponry against civilian areas, were said to have caused a large number of victims. A total

of 61 bombardments of residential zones and 18 military operations directed against the civilian population were registered by CDHG during the first six months of 1993.

304. In addition, the Special Rapporteur received a number of reports according to which former combatants of the National Revolutionary Unit of Guatemala (URNG) were held in secret detention centres by the military. Several of them who escaped were said to have reported about torture and ill-treatment as well as death threats against the detainees and their families, allegedly with the aim of forcing them to collaborate with the military in the identification of members of the armed opposition.

305. These human rights violations reportedly continued to take place in a climate of impunity. As in former years, the Special Rapporteur was informed that only in very few cases were judicial proceedings initiated which led to the identification and conviction of those responsible for human rights violations. In particular, the civil defence patrols are said to continue to operate with impunity. The Special Rapporteur also received several reports concerning acts of intimidation and harassment and death threats to deter relatives of victims of human rights abuses and witnesses in legal proceedings from denouncing human rights violations and/or providing testimony against members of the security forces or those collaborating with them.

306. After the aborted coup d'état by former President Jorge Serrano Elías on 25 May 1993 and the election of human rights attorney Ramiro de León Carpio as the new President in the absence of a head of State, several observers expressed their hope that the human rights situation in Guatemala would improve and new impulse given to the peace negotiations between the Government and URNG.

Communications sent

307. The Special Rapporteur transmitted to the Government of Guatemala allegations he had received concerning violations of the right to life against more than 220 persons. Seventeen cases reportedly concerned violations of the right to life of minors and in 30 cases the victims were women; 66 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

308. The Special Rapporteur addressed 25 urgent appeals to the Government of Guatemala after he had received reports about death threats by members of the security forces or forces collaborating with them against:

(a) Bruce Harris, executive director of Casa Alianza (15 January 1993); Demetrio Antonio Pérez Ordóñez, collaborator of Casa Alianza (19 March 1993); Axel Mejía, collaborator of Casa Alianza (24 March 1993);

(b) "Street children" José Humberto Sandoval Guillo, Carlos Mayén, Axel Danilo Vásquez, Juan Carlos Calderón, Henry Molina and Francisco Tziac (19 August 1993);

(c) Ruby Magdalena Guzmán, wife of journalist Alfredo Torres Coyoy (25 January 1993); Angela María Contreras Chávez, collaborator of GAM (30 April 1993); Pablo Itzep Hernández, Cruz Luz Hernández and Manuel Batén Hernández, members of CERJ (28 May 1993); student leaders Amílcar David Montejo García, Armando Estrada Quesada and Ingrid Lucrecia Urrutia Aldana (2 June 1993); Jerónimo Moralez Tiriquiz and Tomás Suy Cantil, members of CERJ, as well as their families (17 June 1993); trade union leaders Elizabeth Recinos Alvarez de León and Eluvia de Salam (14 July 1993); Fernando René de León Solano, executive secretary of AGJ (2 August 1993); Oswaldo Enríquez Contreras, leading member of CDHG, and his relatives Ricardo Enríquez, Dr. Roberto Enríquez and María Elena Enríquez (11 August 1993); medical doctor Brenda Mérida (1 September 1993); Olga Ruano Cruz de García, president of a neighbourhood committee (14 September 1993); members of AGJ and CONDEG, after attacks on their offices (20 September 1993); Nineth Montenegro, president of GAM, as well as other members of GAM and FAMDEGUA (29 September 1993); Marco Choco Damas, member of CONDEG (22 November 1993);

(d) Journalists Byron Barrera Ortiz, Hugo Arce, Marco Augusto Quiroa, Otto Morán, Carlos Rafaél Soto, Haroldo Sánchez, Marco Vinicio Mejía, Mario Roberto Morales, Danilo Rodríguez and Rubén Mejía, trade unionists Byron Morales and Romeo Monterroso, student leader Víctor Hugo Godiel, community workers Helmer Velázquez, Oscar Azmitia, Mario Silvestre and Alberto Monterroso, human rights lawyer Rodolfo Azmitia Jiménez as well as Alberto Echeverría, Ricardo Stein, Edgar Franco Rivera, Andrés Campos, Héctor de León Sagastume and Raquel Gartz, whose names were listed in a leaflet threatening them with assassination (8 April 1993); Juan José Rodil Peralta, the President of the Supreme Court, Rigoberta Menchú and 21 other well-known human rights activists, trade unionists, student leaders and journalists, in a communiqué which threatened to kill them (15 October 1993);

(e) Alejandro Pablo, in the context of land conflicts (25 January 1993); trade unionist Carlos Ranferi Gómez López, after a visit to the Indigenous Resistance Communities in El Quiché Department (2 April 1993); Gustavo Monzón, coordinator of Casa Nazareth, an organization which assists indigenous peasants and students (15 October 1993);

(f) César Augusto Paiz, Member of Parliament for the National Liberation Movement (MLN) (25 January 1993);

(g) Human rights activist Rigoberta Menchú and her family (25 January 1993);

(h) Juan Carlos Marroquín Tejeda and José Arnaldo Tejeda, witnesses to the extrajudicial killing of anthropologist Myrna Mack Chang in September 1990 (15 February 1993); Clara Arenas and María Elena Dávila de Torres of AVANCSO and Helen Mack Chang, sister of Myrna Mack Chang (26 February 1993);

309. The Special Rapporteur also transmitted urgent appeals to the Government of Guatemala expressing concern for the lives and physical integrity of:

(a) Efraín Bamaca Velásquez, Anastacia López Calvo, Martín Pérez Cabrera, Antonio Lorenzo, César Augusto Cabrera Hernández,

Aníbal Cabrera López, Carlos López, Reginaldo de Jesús Pérez Llama, Sr. Estrada and 29 others identified only by nicknames, all former URNG combatants who were said to be held in secret detention centres by the army, where they were allegedly subjected to torture and death threats (8 April 1993);

(b) Fifty-eight residents of Colotenango, among them members of CUC, CONDEG and CONAVIGUA, said to be under threat from the local PAC, after the killing of Juan Pablo Chanay (11 August and 14 September 1993); Luis Montefar, Héctor Mendizabel, Dr. Fredy Velásquez and members of San Gaspar Chajul police station, who were said to be at risk for their participation in the exhumation of Nicolás Bernal Mendoza, Miguel Cobo and Gaspar Caba Santiago, allegedly killed by PAC for having refused to participate in their patrols, and the subsequent investigation into these killings (3 November 1993); as well as Marcos Godinez, María Sales López, Ramiro Godinez Pérez, Francisca López Sánches and Juan Godinez Pérez, after the killing of Andrés Godinez Díaz and his wife María Pérez Sánches by members of PAC in Colotenango (15 October 1993);

(c) Imprisoned ex-soldiers Francisco Solbal Santay, Tiburcio Hernández Hernández, Noél Jesús de Beteta Alvarez, who, at a press conference in prison, had made declarations about extrajudicial executions by the military of persons suspected of being "subversives" in which they participated, as well as prisoner Jorge Guillermo Lemus, who had organized the press conference, after the killing, allegedly as a warning to them, by security forces of four prisoners: Moisés Tun Toc, Antonio Castillo Méndez, José Morales Campos and Oliverio Echeverría (22 November 1993).

310. The Special Rapporteur also transmitted to the Government of Guatemala the alleged extrajudicial, summary or arbitrary executions of José Tuy Carmen, Juan Tuy Quisquinay, 14-year-old Luis Antonio Tuy Carmen and 17-year-old Susana Tuy Carmen; Lucas Pérez Tadeo; and Mario José Colindres, allegedly by members of the military or groups collaborating with them; Pablo Luciano and Rosana Méndez, allegedly killed by members of the police; Catarino Chanchavac Larios; and Tomás Lares Cipriano, member of CERJ, allegedly for having refused to participate in the ostensibly voluntary PAC; and "street child" Henry Yubani Alvarez Benitez, allegedly by a private security guard.

Communications received

311. At the time of the preparation of the present report, no communications had been received from the Government of Guatemala.

Follow-up

312. The Special Rapporteur addressed a follow-up communication to the Government of Guatemala in which he referred to replies provided by the authorities to a number of cases transmitted in 1992 (see E/CN.4/1993/46, paras. 296-300). The Special Rapporteur requested the Government of Guatemala to provide him with updated information in cases where investigations had been opened and, in particular, whether those identified as authors of extrajudicial killings had been detained. In cases of death threats, the

Special Rapporteur inquired about the measures of protection that had been adopted. Where the Government had informed him that investigations had not revealed any evidence indicating that the persons in question had been a target of death threats, the Special Rapporteur asked for additional details about those investigations.

Observations

313. The Special Rapporteur is deeply concerned at the persistent and grave allegations of violations of the right to life as well as of impunity for those who commit such violations. Continued reports of killings and intimidation of "street children" and human rights activists, many of whom have been cooperating with United Nations procedures for the protection of human rights for a number of years, are most disturbing. The Special Rapporteur is also deeply concerned that violations of the right to life by members of the PAC and in the context of military counter-insurgency operations continue. In the light of the quantity and particularly serious character of the allegations, the Special Rapporteur regrets that no reply at all has been received to the cases transmitted to the Government of Guatemala in 1993. The Special Rapporteur calls upon the competent Guatemalan authorities to make every effort to ensure effective protection of those under threat and to carry out exhaustive and impartial investigations into all allegations of human rights violations with a view to identifying and punishing those responsible and granting compensation to the victims. He also appeals to the Government of Guatemala to adopt measures directed at the prevention of further violations of the right to life.

Haiti

314. The Special Rapporteur continued to receive a large number of allegations of extrajudicial executions, disappearances, death threats or acts of harassment or intimidation in Haiti. Violations of the right to life were reported to have been carried out by members of the army or of the police, as well as by attachés, armed civilians said to operate as auxiliaries to the security forces, and groups constituted by soldiers in civilian clothes known as "Zenglenderos".

315. During the spring of 1993 and again in the month of August, an upsurge of such violations was reported, particularly in the capital, Port-au-Prince. Increased acts of violence directed at supporters of President Jean-Bertrand Aristide were said to reflect the security forces' unease at the agreement signed on 3 July 1993 by President Aristide and Commander-in-Chief of the Armed Forces, General Raoul Cédras, which provided for the return of the former on 30 October 1993. Since this agreement was signed, at least 100 people were reported to have been killed. Many of the victims were said to have been journalists attempting to report incidents of human rights violations or others who had sought to exercise their right to freedom of expression by putting up posters, selling papers or handing out leaflets in support of President Aristide.

316. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. It was reported

that, almost without exception, members of the security forces and other forces collaborating with them or acting with their acquiescence were not asked to account for their actions.

317. In this context, the Special Rapporteur also wishes to refer to considerations regarding the right to life contained in the report submitted by the Special Rapporteur on the situation of human rights in Haiti, Mr. Marco Tulio Bruni Celli, to the General Assembly in November 1993 (A/48/561).

Communications sent

318. The Special Rapporteur transmitted to the de facto authorities in Haiti allegations he had received concerning violations of the right to life of 115 persons, including at least two minors and six women. At least 15 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

319. The Special Rapporteur sent four urgent appeals to the de facto authorities of Haiti by which he expressed concern for the life an physical integrity of: Jean Emile, journalist, and Gisèle Saint-Firmin, mother of a supporter of President Aristide, allegedly subjected to severe torture in detention and denial of medical care; Dilya Elyasen, Franki Mas, Selo Mas and Jeno Mas, reportedly tortured while in detention (2 February 1993); 17-year-old Francilien Julien and other children and staff members of a orphanage created by President Aristide, after death threats from a group of attachés (3 June 1993); Evans Paul, former mayor of the capital, reportedly under death threats from a group of some 200 attachés, after two of his supporters, including Bayard Edrice, had been killed by the same group (20 September 1993); Jean-Claude Bajeux, human rights activist and Vice-President of KONAKOM, an organization supporting President Aristide, and his wife, Sylvie Bajeux, after being attacked at their home by armed men said to act in cooperation with the security forces (18 October 1993).

320. In his urgent appeal of 20 September 1993, the Special Rapporteur also expressed concern at the wave of political violence initiated on 8 September 1993 and reports about the existence of a "hit-list" of 21 supporters of President Aristide to be executed by the attachés. In this context, the Special Rapporteur also asked the de facto authorities to open an investigation in the alleged killing during a mass of Antoine Izméry and Fritz Jocelyn.

321. The Special Rapporteur also transmitted to the de facto authorities of Haiti more than 100 cases of alleged extrajudicial, summary or arbitrary executions, which were said to have taken place in 1992, including the following:

(a) The following persons, most of them supporters of President Aristide, were said to have been killed by armed men suspected of acting with the acquiescence of the security forces: Marcel Almonaty, Ernest Rosembert, "Ti Bateau", Gabriel Joseph, Jean-Claude Michel, and three unidentified women. Two members of KONAKOM were also said to have been killed in the same circumstances: Jacques Dernoncourt and Marcel Fleurzile;

(b) The following persons had reportedly been killed by the so-called "Zenglenderos": André Jean Joseph and his wife, and 10 unidentified persons;

(c) The following persons were reportedly killed by members of the armed forces, either because they were supporters of President Aristide, or for personal reasons: Amos Mervil, Jean Time, Jean-Charles Misidor, Jean Dadi ("Ti Dadi"), "Ti Blau", Antoine, Gary Jeanty, Lachenais St. Vilus, Paul Vilfranc, Jean Sony Philogane, and five unidentified persons.

322. The Special Rapporteur also transmitted the case of 40 persons who were reportedly killed when members of the armed forces opened fire on a small boat. The victims included: Coreus Peterson, Emile Wilberhard, Ghislaine, Irma, Josue, Pierre Wilfrid, Jean Potin, and Tilous Taylor.

Communications received

323. The de facto authorities of Haiti replied to the Special Rapporteur's urgent appeal dated 10 September 1992 concerning the case of Jude Damus (E/CN.4/1993/46, para. 314), who had been ill-treated while in custody. They reported that he had been released shortly after his arrest, on the intervention of the Commissioner of Jérémie (11 December 1992). A reply was also provided concerning the urgent appeal sent by the Special Rapporteur on 2 February 1993: the case had been transmitted to the competent authorities for investigation (18 February 1993).

Observations

324. The Special Rapporteur expresses deep concern at the reported upsurge of political violence in Haiti. Reports of killings of those attempting to exercise their right to freedom of opinion and expression were particularly disturbing. The Special Rapporteur regrets that the United Nations human rights mechanism which had started to operate in Haiti was forced to interrupt its activities; he wishes to establish cooperation with this operation when it resumes its work. The Special Rapporteur emphasizes that the long-lasting cycle of violence and impunity in Haiti must be terminated. The perpetrators of human rights violations must be brought to justice and measures must be designed to prevent the recurrence of such acts of violence.

Honduras

Communications sent

325. The Special Rapporteur transmitted to the Government of Honduras allegations he had received concerning the extrajudicial, summary or arbitrary execution of Juan Humberto Sánchez, Abraham Vasquez Lazo, 16-year-old Karla Patricia Galindo, and Luis Alfonso Alcántara, allegedly killed by members of the military; as well as Francisco Andres Alvarenga Mena, reportedly shot by police in excessive use of force. All of these killings were said to have taken place in 1992.

Communications received

326. At the time of the preparation of the present report, no replies had been received from the Government of Honduras.

India

327. The Special Rapporteur received a number of reports concerning human rights violations in India. In particular, the Special Rapporteur was informed about the persistence of numerous violations of the right to life in Jammu and Kashmir. While armed separatists were said to be responsible for kidnapping and killing government officials as well as members of paramilitary forces and civilians, serious concerns have been expressed over a large number of killings by the Indian security forces. Very often, these killings were said to be the result of torture and ill-treatment in custody. Since the middle of 1992, the numbers of deaths in police and military custody have reportedly risen sharply. In many cases, the detainees were reported to have died after torture, shortly after their arrest. As in past years, torture was said to be widespread throughout India to extract confessions or information. Allegedly, the victims even included policemen. The Special Rapporteur was informed that, in March 1993, the occurrence of killings of detainees had been admitted by a senior Kashmiri official.

328. According to the information received, the Minister of State for Home Affairs and the Governor of Jammu and Kashmir have both stated that every death in custody would have to be accounted for and that the sternest possible action would be taken against those responsible for those killings. It was alleged, however, that this was rarely done. Inquiries were said to be carried out by police or army officials rather than by an independent and impartial body. Allegedly, their findings were almost never published. The Governor of Jammu and Kashmir was said to have ordered several investigations into human rights abuses. In one case, this reportedly led to charges of murder being brought against the Director of the Border Security Forces (BSF). According to information forwarded to the Special Rapporteur by the Indian authorities, action was taken against 171 members of the security forces in Jammu and Kashmir for human rights abuses. Such action consisted of imprisonment for several months and, in some cases, years, of security forces personnel, as well as dismissals from service, reductions in rank, suspensions or other departmental penalties. The authorities also informed the Special Rapporteur that during 1992, action was taken against 37 security forces personnel in Punjab.

329. Human rights violations perpetrated by members of the security forces were also reported in Punjab. A large number of suspected members or sympathizers of armed opposition groups or their relatives were said to have been killed in police custody, often after torture. The authorities reportedly attribute most of these deaths to armed encounters between militants and security forces. Deaths in custody and disappearances are said to be encouraged by the fact that existing legal safeguards against unacknowledged detention are often not adhered to.

330. According to information provided by the Goverment of India, between 1988 and 1992, armed separatists were responsible for the killing of 4,602 persons, including 508 members of the security forces, in Jammu and Kashmir and more than 10,000 persons, including over 1,400 policemen, in Punjab.

Communications sent

331. The Special Rapporteur transmitted to the Government of India allegations he had received concerning violations of the right to life of 215 persons, including one identified minor. More than 190 persons were reportedly killed in violation of their right to freedom of opinion and expression, peaceful assembly and association.

332. The Special Rapporteur sent four urgent appeals to the Government of India in which he expressed concern for the lives and physical integrity of Satnam Singh (22 December 1992) after reports about his alleged abduction by police; Mohinder Singh Grewal and D.S. Gill, Secretary-General and Chairman, respectively, of the International Human Rights Organization (IHRO), after allegations of death threats during police interrogations (5 April 1993); Umrao Singh (27 April 1993) and Nazir Ahmed Nisri (29 June 1993), both reportedly held in unacknowledged police detention.

333. The Special Rapporteur also transmitted to the Government of India the following cases that had been brought to his attention:

(a) The alleged extrajudicial killing of at least 53 civilians during an operation by the BSF in the village of Sopore; and of at least 137 people by members of the security forces who were carrying out official orders to suppress violent mobs but who allegedly fired on peaceful demonstrators and other people in Bombay, during the week following the destruction of the Babri Masjid in Ayodhya;

(b) The alleged extrajudicial execution by Indian security forces of Abdul Ahad Magrey and Imtiaz Ahmed; Hamida Mattoo; 10-year-old Ahmed Bilal and his parents; and three unidentified persons when security forces opened fire against demonstrators protesting the killing of Ahmed Bilal and his family;

(c) The killing, by gunmen allegedly linked to the security forces, of human rights activist H.N. Wanchoo; Dr. Farooq Ahmed and Dr. Abdul Ahad Guru, two surgeons who had documented numerous cases of torture; and the latter's brother, Ashiq Hussain, during Dr. Guru's funeral;

(d) The deaths, allegedly as a result of torture while in police or military custody, of: Satyavan; Vidyadhran; Manzoor Ahmed Ganai; police constable Riaz Ahmed; Nandagopal; Vikal Kumar; and Rajinder Prasad.

334. In the light of these allegations and, in particular, of the fact that similar reports had come before the Special Rapporteur over a number of years, the Special Rapporteur conveyed to the Government of India his interest in carrying out a visit to that country with a view to being in a better position to evaluate the situation and, consequently, proposing constructive recommendations that may help prevent the recurrence of such violations. With

reference to the particular problem of deaths in custody due to ill-treatment, it was suggested that such a visit could be carried out jointly with the Special Rapporteur on the question of torture.

Communications received

335. The Government of India provided the Special Rapporteur with information about investigations carried out into the killings of Dr. Guru and his brother A. Hussain, as well as human rights activist H.N. Wanchoo, which were said to have been committed by armed militants (17 November 1993).

Follow-up

336. The Special Rapporteur sent a letter to the Government of India in which he expressed his appreciation for a number of replies forwarded to him during 1992 and in early 1993, in response to allegations transmitted to the Indian authorities in 1992. In several cases of alleged death in custody due to torture, the Government of India had reported that inquiries had been initiated and, as a result, charges filed against members of the security forces. The Special Rapporteur asked the authorities to provide him with general information about the procedures followed to investigate such cases and about the current status of decisions, if any, concluding the inquiries into the specific incidents transmitted by him, as well as details about the organs carrying out those inquiries.

337. Where the Government of India had informed the Special Rapporteur that investigations had been initiated but had failed to determine that security forces personnel were responsible for having committed any offence, he asked for details concerning the investigations, in particular whether autopsies had been carried out. Specific information was also requested in a number of cases where the Indian authorities had informed the Special Rapporteur, for example, that a person had died due to head injuries after a scuffle with security forces personnel during his arrest, or where it was not clear whether an autopsy had been performed to determine the cause of death.

338. During his visit to Geneva in November 1993, the Special Rapporteur met with representatives of the Government of India who informed him about efforts made by the Indian authorities to ensure full respect for human rights. In particular, a Human Rights Commission Bill had been prepared by the Government and introduced in Parliament on 14 May 1993. On 28 September 1993, the Government of India issued the Protection of Human Rights Ordinance 1993 providing for the establishment of a National Human Rights Commission, State human rights commissions and human rights courts. The Special Rapporteur was also provided with details on a number of killings committed by armed separatists in Jammu and Kashmir.

339. With regard to a possible visit to India, the Special Rapporteur was informed by the Government of India that it was preferable to let the newly established human rights mechanisms deal with allegations of violations of the right to life.

Observations

340. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of India in forwarding to him details concerning a number of cases of alleged extrajudicial, summary or arbitrary executions as well as information about measures to increase protection of the right to life. The Special Rapporteur welcomes the recent legislation providing for human rights commissions and human rights courts in India and hopes that these organs will become operational soon and contribute to full and impartial investigation of human rights violations with a view to identifying and punishing those responsible and compensating the victims, as well as to preventing similar abuses in the future.

341. The Government of India informed the Special Rapporteur on repeated occasions that most human rights violations occur in the context of fighting terrorist movements in the States of Jammu and Kashmir and Punjab. The Government also stated that even in such circumstances, no extrajudicial executions should occur. The Special Rapporteur entirely agrees with the Government of India that respect for the right to life must be fully ensured, even where the security forces are faced with the difficult task of fighting an armed opposition which often does not show respect for the right to life.

342. The Special Rapporteur remains concerned at allegations of violations of the right to life that continue to come before him. He will continue to monitor the situation closely. As concerns the possibility of a visit to India, the Special Rapporteur informed the representatives of the Government of India that he did not intend to carry out tasks which fall within the competence and responsibility of national institutions charged with the investigation of human rights violations but to seek first-hand information which would provide him with a better understanding of the situation and the problems faced by the authorities with respect to the right to life. This, in turn, would enable him to better evaluate the information that comes before him and offer his assistance in the efforts directed at providing better protection for the right to life.

Indonesia

343. The Special Rapporteur received a number of reports suggesting that serious violations of the right to life continue to be a common occurrence in Indonesia and East Timor. The Government's counter-insurgency operations reportedly entailed a large number of extrajudicial executions and disappearances at the hands of security forces personnel. Executions and disappearances were also said to be used by the authorities as an instrument to deal with other perceived threats to national security such as ordinary criminal activity and peaceful political opposition.

344. According to the information received, East Timor continued to be particularly affected by violations of the right to life perpetrated by the Indonesian security forces. At least 40 persons were said to have been extrajudicially executed by members of the security forces in 1992. The whereabouts of more than 200 persons who allegedly disappeared after the killing of more than 50 persons on 12 November 1991 at Santa Cruz were

reportedly not known at the end of 1992. Many of them were feared to have been killed and buried in anonymous graves outside Dili or thrown into the sea.

345. A similar pattern of extrajudicial executions and disappearances was reported in Aceh. Although the scale of violations of the right to life in this region was said to have diminished since the peak of the Government's counter-insurgency campaign between 1989 and 1991, politically motivated executions and disappearances allegedly continued to occur in 1992, and there had reportedly been no fundamental change in the conditions which allowed them to occur. Fears were therefore expressed that there was a real danger of the emergence of a similar pattern of violations in the context of future counter-insurgency operations in Aceh or in other parts of the country.

346. Extrajudicial executions, in particular killings of detainees while in custody and of suspected criminals, were also reported in Jakarta and other major cities. Police authorities were said to have defended the use of lethal force in what was described as a "shoot-to-kill" policy, stating that this was necessary to counter criminality in the city. Military and police were also reported to employ excessive use of force to disperse peaceful demonstrations and strikes.

347. According to several reports, the perpetrators of human rights violations enjoyed virtual impunity. With very few exceptions, those responsible for unlawful killings or disappearances are not prosecuted or convicted. None of the 10 members of the security forces tried before a military tribunal in connection with the November 1991 killings at Santa Cruz was charged with murder; all reportedly received only light sentences for disciplinary offences.

348. The establishment, in August 1992, of a human rights committee by some members of the Dewan Perwakilan Rakyat and the announcement, in January 1993, by President Suharto of plans to establish an independent national human rights commission in the near future were reported as positive steps towards increased protection of human rights. However, at the time of the preparation of the present report, the Special Rapporteur had not received any detailed information about the working of these institutions.

Communications sent

349. The Special Rapporteur transmitted to the Government of Indonesia allegations he had received concerning violations of the right to life of 32 persons, including one minor and one woman.

350. The Special Rapporteur sent three urgent appeals to the Government of Indonesia in response to reports he had received concerning:

(a) The imminent execution of Khong Thavorn Kamjal, a Thai seaman sentenced to death in 1988 for drug smuggling, allegedly in breach of fair trial guarantees (31 December 1992);

(b) Military operations carried out by the Indonesian security forces to counter movements advocating independence in the province of Irian Jaya,

which were alleged to entail human rights violations, including the extrajudicial, summary or arbitrary execution of civilians. The killing of Hans Soaf was cited as an example of such violations. The members of the security forces were said to act with impunity (29 September 1993);

(c) Alleged death threats by members of the police, or with their complicity, against Ahmad Jauhari, a lawyer working in a legal aid institute, for his involvement in a land dispute (18 October 1993).

351. The Special Rapporteur also transmitted to the Government of Indonesia a number of specific cases which were said to have occurred in Aceh and which concerned the following civilians, allegedly killed by members of the Indonesian Army:

(a) Nurdin Usman Murni, Nurdint Patang, Ibrahim Keumala, Jamaluddin Usman, Sulaiman Tjot Hurong, Ahmad Rusil, Hasan Geusjik, Ihum Hamzah Teungku, Seuman Geusjik, Umar T. Tangse, Iljsa Ali, Utolh Yusuf, Rusii Atjeh, Adnan Ahmad, T. Husan and N. Ismail, who were reportedly killed by soldiers with no apparent reason;

(b) Zulfikli, who was reportedly arrested and forced to join the army's counter-insurgency operation. He was then allegedly shot dead for "trying to escape";

(c) Geusjik Umar Mahmud, a leader of the Free Aceh Movement, allegedly shot dead by the army;

(d) Bang Lah Meuleuweuek, who was reportedly arrested by soldiers looking for her husband. Her dead body was later found bearing marks of torture and of several bullet wounds;

(e) A. Djaill Kasem, reportedly arrested by the army to identify members of an opposition movement, and later killed for refusing to cooperate.

Communications received

352. The Government of Indonesia provided the Special Rapporteur with a reply to his urgent appeal of 31 December 1992 and informed him that Khong Thavorn Kamjai had been found guilty and sentenced to death by the State Court of Samarinda of illegal possession of narcotics, according to article 36 of Narcotics Law No. 9. The verdict was upheld by the Higher Court of Samarinda. There was no proof whatsoever that force had been used to compel him to sign a statement of guilt. Since there was no new element which could be used as proof of his innocence, his appeal to the Supreme Court, a plea for clemency to the President of Indonesia and a request for review of the case by the Supreme Court were all rejected. A second request for pardon from the President was filed, but no decision had been taken at the time of the reply (22 June 1993).

353. The Government of Indonesia also replied to the urgent appeal sent on 29 September 1993 concerning military operations in Irian Jaya: Hans Soaf was alive and his whereabouts were given (22 November 1993).

Observations

354. The Special Rapporteur wishes to express his appreciation for the two replies received from the Government of Indonesia, which are detailed and complete. The Special Rapporteur welcomes the plans to set up an independent national human rights commission. He hopes that this institution will be able to investigate effectively allegations of violations of the right to life in Indonesia and East Timor. The Special Rapporteur wishes to receive all relevant information concerning this commission, such as its composition, tasks, status, powers, etc. He also hopes to be able to establish a relationship of cooperation with the commission as soon as it has begun its work.

355. The Special Rapporteur remains deeply concerned at persistent and grave allegations of violations of the right to life in Indonesia and East Timor. The reports outlined above concerning abuse of force by the security forces in Irian Jaya and by the security forces in Jakarta and other cities are particularly disturbing. The Special Rapporteur is also concerned that perpetrators of human rights violations continue to enjoy impunity. The Special Rapporteur calls on the authorities to adopt effective measures to prevent the recurrence of violations of the right to life, in particular instances of abuse of force by the security forces.

356. The Special Rapporteur hopes to have the opportunity to participate in the implementation of Commission on Human Rights resolution 1993/97 on the situation in East Timor, in which the Commission urged the Government of Indonesia, inter alia, to invite him to visit East Timor. In a communication addressed to the Government of Indonesia, the Special Rapporteur has expressed his interest in carrying out such a visit. The Government of Indonesia replied that the content of this letter had been forwarded to the authority concerned in Jakarta for further careful consideration. The authorities drew the Special Rapporteur's attention to the fact that resolution 1993/97 of the Commission was adopted by a vote which Indonesia and many other member countries rejected. Therefore, Indonesia did not feel compelled to abide by its provisions. It was further stated that the Government of Indonesia would give due consideration to a request for a visit to Indonesia, including East Timor, of any thematic rapporteur, as long as it was based on United Nations consensus resolutions.

Iran (Islamic Republic of)

357. The reports and allegations that have come before the Special Rapporteur indicate that extrajudicial, summary or arbitrary executions continue to occur on a large scale in the Islamic Republic of Iran.

358. As in former years, it was reported to the Special Rapporteur that trial procedures before Islamic Revolutionary Courts which lead to the imposition of the death penalty in an alarmingly high number of cases do not conform to internationally recognized fair trial standards. This was said to affect, in particular, the right to an adequate defence and the right to appeal. In political cases, trials were often said to last only a few minutes. Reportedly, the accused have no access to legal counsel at any stage of the proceedings, and they are denied the right to appeal against conviction and

sentence as well as any opportunity to seek commutation of the sentence. Furthermore, hearings are said to be held in camera. The use of televised confessions is feared to further undermine the possibilities of a fair trial. It is particularly preoccupying that similar allegations have now been received for several years, without there being any indication of steps taken by the competent authorities towards a change in procedures.

359. The Special Rapporteur also received numerous reports concerning attacks against members of the political opposition to the Government outside the Islamic Republic of Iran. It has been alleged that those responsible are agents with links to the Iranian security forces.

Communications sent

360. The Special Rapporteur transmitted to the Government of the Islamic Republic of Iran allegations he had received concerning violations of the right to life of more than 100 persons, including one identified minor and two women. More than 50 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

361. The Special Rapporteur sent six urgent appeals in which he expressed concern at the reported imminent execution of death sentences imposed by Islamic Revolutionary Courts on: 51 students of the University of Isfahan (31 December 1992); Abdollah Bagheri (19 March 1993); Salim Saberniah and Mustafa Ghaderi (27 April 1993 and 13 September 1993); 77-year-old Feizollah Mekhoubad (30 June 1993); and Seyed Roh Allah Hashemizadeh (16 July 1993).

362. The Special Rapporteur also transmitted to the Government of the Islamic Republic of Iran the following cases of alleged executions:

(a) Roja Boheilian, allegedly killed by members of a vice-squad; and Bahareh Vejdani (17), allegedly shot dead by a policeman for violating the Islamic dress code;

(b) After having been sentenced to death: Ali Reza Hamidabad, Hamid Kord and Gholam Reza Sagvand in Dezful prison; Mohsen Mohammadi Sabet in Rasht prison; Abbas Sialipour and Gharib Faramarz in Karaj; four unidentified people in Torbat-e-Heidarieh; one unidentified person in Mashad prison; Mohammad Zaef Dorrani in Shiraz; four unidentified persons in Sirjan; Kaliman Narou'i and 11 others (names available at the Secretariat) in eastern border areas of the Islamic Republic of Iran; Hossein Panahi in Karaj; Abdol-Latif Ghabishavi in Ahwaz;

(c) Killings of Iranian nationals abroad, allegedly by agents linked with the Iranian security services: Mohammad Hussein Nagdi, representative of the National Council of Resistance in Rome; Mojahed Mohammad Hassan Arbab, also known as Mohamad Khan Baluch, in Karachi; Ali Akbar Ghorbani, also known as Mansour Amini, in Istanbul; Behran Azadfer in Ankara; Delarvir Narou'i and Heybatollah Narou'i in Karachi. These allegations were also transmitted to the Governments of Italy, Pakistan and Turkey.

Communications received

363. The Government of the Islamic Republic of Iran provided the Special Rapporteur with replies to three of the cases transmitted in 1993. With regard to Abdollah Bagheri, the authorities reported that Mr. Bagheri was one of the ringleaders of the "Komala" terrorist group who had confessed to the murder of four persons, and that his case was under investigation by the competent tribunal (13 May 1993). As concerns the case of Feizollah Meikhoubad, it was stated that he had been arrested on charges of espionage for Israel and was now waiting for the final sentence to be issued by the competent court. The Iranian Government requested to be provided with the father's name, date and place of arrest of Salim Saberian and Mostafa Gnaderi, in order to be able to carry out investigations (22 September 1993).

Follow-up

364. The Special Rapporteur received communications from the Governments of Italy and Turkey concerning the investigations carried out by the competent authorities into the killings of Mohammad Hussein Nagdi and Ali Akbar Ghorbani (11 November and 12 November 1993, respectively).

Observations

365. The Special Rapporteur appreciates the information provided by the Government of the Islamic Republic of Iran in reply to some of the cases transmitted in 1993. He would like to note, however, that these replies do not refer to any of the concerns with regard to shortcomings in the guarantees for a fair trial in proceedings leading to the imposition of capital punishment. The Special Rapporteur calls upon the authorities of the Islamic Republic of Iran to fully respect the rights of those facing the death penalty.

366. The Special Rapporteur is also deeply concerned at the reports of extrajudicial killings abroad of persons known to be in opponents of the Iranian Government. In this context, he wishes to express his appreciation for the information forwarded by the Governments of Italy and Turkey, whose authorities are charged with the investigation of the killings that occurred on their national territory.

367. In addition, the Special Rapporteur notes that, should the allegations concerning the killings of two women for having violated the Islamic dress code be substantiated, these are the only cases that have come to his attention during the past year in which the victims have been specifically targeted for being women.

368. The Special Rapporteur would like to refer also to concerns about the right to life expressed by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Mr. Reynaldo Galindo Pohl, in the recent report to the General Assembly (A/48/526).

Iraq

369. The reports and allegations that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Iraq on a large scale, in particular, attacks by the military on villages. In this context, the Special Rapporteur wishes to refer to reports of indiscriminate bombardment of civilian settlements and arbitrary killings in the Southern Marsh areas, allegedly resulting in the death of large numbers of civilians, including women, children and the elderly. These are contained in the report recently presented to the General Assembly by the Special Rapporteur on the situation of human rights in Iraq, Mr. Max van der Stoel (A/48/600).

370. The Special Rapporteur also received reports expressing concern at the practice of capital punishment in Iraq. Under legislation passed by the Revolutionary Command Council, offences like car theft or smuggling of cars were made punishable by death.

Communications sent

371. The Special Rapporteur transmitted to the Government of Iraq allegations he had received concerning violations of the right to life of at least 24 persons, 11 of them minors.

372. The Special Rapporteur sent an urgent appeal to the Government of Iraq after being informed about an attack on the Kurdish village of Arwina, where members of the Arab Lahib tribe were said to have shot indiscriminately at civilians. The Iraqi military allegedly supported the attack by shelling from military bases. Thirty people were said to have been killed, 17 of whom had been identified (names available at the Secretariat) (6 April 1993).

373. The Special Rapporteur sent a second urgent appeal to the Government of Iraq after being informed that the following persons had been sentenced to death for stealing and smuggling cars and faced imminent execution: Salah Mahdi Mezahim, Ali Salih Abood, Ali Mohammed Abdullah, Fouad Jwad Kadhim, Ali Murad Ali and Qasim Mohammed (15 April 1993).

374. The Special Rapporteur also transmitted to the Government of Iraq the case of the killing, allegedly by armed men linked with Iraqi security forces, of Vincent Robert Ghislain Tollet, a Belgian national and humanitarian aid worker, near Sulaymania.

Communications received

375. The Government of Iraq provided replies to all cases transmitted by the Special Rapporteur in 1993.

(a) With regard to the attack on Awina village, the Government reported that an exchange of fire took place between peasant families after an argument had broken out over the use of farm land belonging to one of them. Casualties resulted from the gunfight which lasted until nightfall. Subversives later exploited this situation by claiming that they had been wounded in an

alleged attack. There were no military units in the area in which the incident occurred, and military personnel did not participate in the attack (27 April 1993);

(b) With regard to the death sentence against six persons convicted for stealing and smuggling cars, the Government of Iraq informed the Special Rapporteur that the death penalty was prescribed by Iraqi law for anyone who commits the offence of vehicle theft, in accordance with Revolution Command Council Decision No. 13 of 1992, which was promulgated with a view to curbing vehicle thefts in wartime. The six persons referred to in the Special Rapporteur's urgent appeal had stolen cars; four had also committed the offence of vehicle smuggling. They were tried before the competent court and benefited from all the standard safeguards for their defence (5 July 1993);

(c) As concerns the case of Vincent Tollet, the Government of Iraq stated that the Iraqi authorities were not responsible for any event in the northern zone. The central Iraqi authorities had not been present in the area for more than two years, due to the flagrant interference of the coalition forces in the region (19 October 1993).

376. Furthermore, the Government of Iraq provided information concerning an urgent appeal sent by the Special Rapporteur in 1992, concerning the execution of death sentences against 67 merchants for economic offences such as profiteering (see E/CN.4/1993/46, para. 375). The Iraqi authorities informed the Special Rapporteur that, as a consequence of the economic embargo imposed on Iraq, the civilian population suffered under extremely difficult conditions. In such circumstances, those exploiting the situation to realize immense profits deserved the death penalty, as prescribed by Iraqi law. Accordingly, 44 merchants, who had monopolized large quantities of food items with the aim of later releasing them onto the market when their prices had risen in order to realize an exorbitant profit, were brought to trial where they benefited from fair trial guarantees. Four were released due to insufficient evidence. The others were convicted of the crime of monopoly and sentenced to death, in accordance with Revolution Command Council Decision No. 315 of 1990. As regards 25 merchants allegedly executed on 17 September 1992, the Government of Iraq denied this information and affirmed that it was untrue (3 June 1993).

Follow-up

377. The Special Rapporteur addressed a letter to the Government of Iraq in which he referred to the replies concerning Awina village and the death sentence against the 40 merchants. With regard to the killings in Awina, the Special Rapporteur requested the Government of Iraq to provide him with additional details, in particular, what investigations had been carried out into the incident, and by which authority; whether the conclusions of such an investigation were available; whether those killed or wounded during the exchange of fire had been identified. As regards the death sentences, the Special Rapporteur asked the Iraqi authorities to inform him in detail about the rules of procedure that apply in trials which may lead to the imposition of capital punishment and which other offences were punishable by death under Iraqi law. He also requested to be provided with the names of the four merchants released for lack of evidence against them.

378. The Special Rapporteur also transmitted the contents of the replies to the sources of the allegations for their comments and observations. The source of the information concerning the Awina attack has already replied, providing additional details which reinforce the earlier allegations.

Observations

379. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Iraq in providing him with the above-mentioned replies. He remains concerned, however, at the reports about violations of the right to life which he continues to receive. With particular reference to capital punishment, the Special Rapporteur calls upon the Iraqi authorities to revise its legislation so as to make it better conform to the standards and safeguards contained in the pertinent international instruments.

Israel

380. According to the information that has come before the Special Rapporteur, human rights violations, including extrajudicial, summary or arbitrary executions, continued to occur in the Occupied Territories.

381. Military attacks by Israeli security forces in the Occupied Territories reportedly continued throughout 1992 and the first half of 1993. Large-calibre machine guns, anti-tank missiles, dynamite and shells were said to be employed to destroy houses in which Palestinians suspected of having committed serious crimes, such as killings of Israelis or other Palestinians, were alleged to be hiding. Concerns were expressed that the massive firepower used in such attacks is excessive and that the destruction of a large number of houses amounts to collective punishment resulting in the deaths of people who were not engaged in any violent activity. A number of reports received by the Special Rapporteur indicate that Palestinians were killed by members of the Israeli military after they had come out of the attacked houses and at a time when they did not pose any threat to the lives of the soldiers, some of them even after they had surrendered without showing any resistance.

382. An upsurge in alleged extrajudicial killings of Palestinian civilians by Israeli forces, including special undercover units, has been reported since the deportation to southern Lebanon of more than 400 alleged supporters of the Islamic Resistance Movement (Hamas) and Islamic Jihad in December 1992. Since then, more than 100 Palestinians were allegedly kil'ed by Israeli security forces. At least 70 of these killings were said tc have taken place in the Gaza Strip. More than 30 of the victims were minors. During the month of May, 24 Palestinians were reportedly killed. This is said to be the highest death toll since the beginning of the year. It has been alleged that the Israeli security forces persistently resort to excessive use of force.

383. According to the information received, no steps have been taken by the Israeli authorities to prevent the excessive use of force by members of the security forces.